

9 CS DJ ADJ 396/22

VIPAN KUMAR Vs. PRAVEEN SHARMA AND OTHERS

10.10.2025

Present: Sh. Vinay Kumar Bajaj, Ld. Counsel for Plaintiff.
Ms. Kashish Khurana, Ld. Counsel for Defendant
no.1, 3, 4 and 5 through VC.

An application has been filed under Order 38 Rule 5 of CPC on behalf of the plaintiff. Copy has already been supplied. Let reply be filed to the said application.

Application for condonation of delay.

There is an application for condonation of delay.

It is claimed by the Ld. Counsel appearing for defendant no.1, 3, 4 and 5, that the transaction in question was with the deceased husband of defendant no.1, who was the father of defendant no.3, 4 and 5. They are all residents of Punjab and Ld. Counsel has submitted that since they were not aware of the transaction, it took sometime for them to give instructions on the claim made in the plaint.

In a case like the present one, where defendants were not involved in the original transaction, but they are only LR's of the deceased, who was involved in the said transaction, it is possible that they would have to search for documents, etc. and make certain inquiries from bank, etc., before the WS can be prepared.

In these circumstances, the application for condonation of delay is allowed. WS is taken on record.

Application is disposed off.

Replication may be filed to the WS.

None appeared on behalf of defendant no.2.
Defendant no.2 is, accordingly, proceeded with ex-parte.

Arguments heard on the application under Order 7
Rule 11 of CPC in part.

Two queries have been put to the counsel for
plaintiff i.e.:

firstly, how a suit for recovery of amount simplicitor
is maintainable, where there is no specific allegation of breach of
contract by the defendant and plaintiff has not shown that he is
always ready and willing to perform his part of contract and he
has never repudiated the contract; and

secondly, how a suit based on an agreement to sell
for a property situated in Rohini and defendants residing at
Amritsar, is maintainable in South-West District, Dwarka.

Ld. Counsel for plaintiff seeks sometime to address
arguments on these aspects.

List on **20.12.2025**.

(HARJYOT SINGH BHALLA)
DJ-03, SOUTH-WEST, DWARKA
NEW DELHI/10.10.2025