

13 CS (COMM) 43/26 APOLLO PIPES LIMITED Vs. GAURAV
GUPTA AND ORS

11.08.2026

Present: Sh. Ashish Raj, Ld. Counsel for the plaintiff (through
VC).
Sh. Mohan Singh, Ld. Counsel for the defendant no. 1
and 2.
Sh. Shubham Aggarwal along with Sh. Francis
Fernandes, Ld. Counsel for the defendant no. 3.

The matter is fixed for consideration on the application
filed by the defendant no. 3 under Order 8 Rule 1 r/w Section 151 of
CPC , vide which, the defendant no. 3 has sought condonation of
delay in filing of the written statement.

I have heard the Ld. Counsels for the parties.

Sh. Shubham Aggarwal, Ld. Counsel for the defendant
no.3 has submitted that the defendant no. 3 has never received any
summon and submitted that the defendant no. 3 has filed this
application for seeking condonation of delay in filing of the written
statement and submitted that the written statement, statement of
truth and affidavit of admission/denial were filed on the e-portal on
dated 06.04.2026 along with reply to the application under Order 39
Rule 1 and 2 of CPC and further submitted that hardcopies thereof
were filed in the court on dated 09.04.2026. He has further
submitted that the defendant no. 3 had received the copies of the
plaint and other documents on dated 07.02.2026 from the local
commissioner. But, it cannot be deemed as service of summon and
further submitted that he had calculated the period from 07.02.2026
and therefore, he has mentioned in the application under
consideration that there is delay of 25 days in filing of the written
statement. He has further submitted that since the defendant was

never served summons, so, the delay in filing of the written statement may be condoned of and this application filed by the defendant no. 3 under Order 8 rule 1 r/w Section 151 may be allowed.

On the other hand, Sh. Ashish Raj, Ld. Counsel for the plaintiff has vehemently opposed this application and submitted that the Local commissioner was appointed by this court, who had delivered copies of the plaint and all the other documents to the defendant no. 3 on dated 07.02.2026 at the time of his visit and submitted that the defendant no. 3 was also sent summons for 24.03.2026 through speed post and as per the report dated 25.02.2026 of postman, the defendant no. 3 had refused to take the summons, so, the summons to the defendant no. 3 through speed post is received back with such report of the postman. Therefore, this defendant no. 3 is deemed to have been served on dated 25.02.2026. He has also submitted that since the defendant no. 3 had received the copies of the plaint and other documents on dated 07.02.2026, but, the defendant no. 3 had filed the written statement along with present application on the e-portal of the court on dated 06.04.2026 and hardcopies thereof were filed in the court on dated 09.04.2026 and this application is based on the falsehood, as the defendant has spoken lie in this application that he has never been served, whereas, he had refused to take summon, so, he has prayed for dismissal of this application.

Having heard to the Ld. Counsels for the parties, this court has perused the court.

Since, the perusal of the record reveals that the summons sent to the defendant no. 3 through speed post for

24.03.2026 was received back with the report of postman that this defendant no. 3 had refused to take summon on dated 25.02.2026. So, the defendant is deemed to have been served on dated 25.02.2026. This application under consideration along with the written statement, statement of truth and affidavit of admission/denial and reply to the application under Order 39 Rule 1 and 2 of CPC were filed on the e-portal on dated 06.04.2026 and hardcopies thereof were filed in the court on dated 09.04.2026. No doubt that the filing of the present suit against defendant no. 3 by the plaintiff had come within the contemplation of this defendant no. 3 on dated 07.02.2026, when, he had received the copies of the plaint and other documents from the local commissioner appointed by this court. But, as the defendant no. 3 had refused to take summons on dated 25.02.2026. So, he is deemed to be served in view of such refusal on dated 25.02.2026 and in this application under consideration filed by the defendant no.3, the defendant no. 3 has stated that no notice was received by him till 25.02.2026 and the Ld. Counsel for the defendant no. 3 has submitted that defendant no. 3 had approached him on dated 25.02.2026 and in view of the same, this date is mentioned in para 3 of this application under consideration. Since the defendant had refused to take summons sent to him through speed post on dated 25.02.2026 and this application under consideration was filed on e-portal of the court on dated 06.04.2026, so, there is delay of 09 days in filing of the written statement. The defendant no. 3 has spoken lie in the application, when he has stated that this no notice was received by him. Thus, this application is based on the falsehood. However, in the interest of justice, delay of 09 days in filing of the written

statement stands condoned, but subject to the cost of Rs. 5000/- to be paid by the defendant no. 3 to the plaintiff. At this state, Ld. Counsel for the defendant no. 3 seeks 2 days time to pay the said cost to the plaintiff. Ld. Counsel for the defendant no. 3 has also submitted that the plaintiff may be directed to provide his account number to him, so, the Ld. Counsel for the plaintiff, who has appeared through VC is requested to provide the account number of the plaintiff to Ld. Counsel for the defendant no. 3 till tomorrow, so that the cost may be deposited by the defendant no. 3 in the account of the plaintiff. It is clarified that the written statement, statement of truth and affidavit of admission/denial and reply to the application under Order 39 Rule 1 and 2 of CPC filed by the defendant no. 3, will be taken on the record, only on the payment of the cost by the defendant no. 3 to the plaintiff. The matter stands adjourned for apprising to the court regarding the payment of the cost by the defendant no. 3 to the plaintiff and also for filing replication to the written statement of the defendant no. 3, case management and framing of issues. At this stage, Ld. Counsel for the defendants have submitted that defendants are also desirous to settle the present matter. Ld. Counsel for the plaintiff has submitted that he will also call to the AR of the plaintiff for talk of settlement. So, the matter stands also adjourned for talk of settlement. All the parties are directed to remain present on the next date of hearing. To come up on **03.09.2026**.

(PAWAN KUMAR MATTO)
DISTRICT JUDGE
(COMMERCIAL COURT)-04,
SHAHDARA, KKD,
Delhi/11.08.2026