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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 15/2021, I.A. 306/2021, I.A. 2531/2021 and I.A. 8513/2022
RAJ KUMAR SETHIPlaintiff

Through: Mr. Harkirat Sawhney, Adv.

versus

ASHOK KUMAR SETHI & ORS.Defendants

Through: Mr. Rajesh Mahindru, Adv. for D-1
Ms. Beenashaw Soni and Ms. Mansi
Jain, Advs. for D-5 and 6

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER
% **26.03.2025**

I.A. 48730/2024 and I.A. 48731/2024 (under Section 151 CPC and Section 5 of Limitation Act)

1. Heard learned counsel appearing on behalf of the parties.
2. Having heard learned counsel for the parties, the Court is of the considered view that the decision of the Division Bench of this Court in ***Ram Sarup Lugani v. Nirmal Lugani***¹, squarely governs the instant matter. The decision categorically elucidates the mandatory nature of timelines prescribed under the Delhi High Court (Original Side) Rules, 2018, and notes that when the legislature has employed the phrase “*but not thereafter*,” it indicates a peremptory provision and in interpreting the same, the Division Bench has held that the right of the plaintiff to file replication,

¹ 2020 SCC OnLine Del 1353



which includes the extended time of 15 days that may be granted under exceptional circumstances, stands extinguished upon expiry of 45 days. The relevant portion of the decision reads as under:-

“21. A conspectus of the decisions referred to above leaves no manner of doubt that where ever the phrase "but not thereafter" has been used in a provision for setting a deadline, the intention of the legislature is to treat the same as a preemptory provision. Thus, if Rule 15 of the DHC Rules mandates filing of a replication within a period of 30 days reckoned from the date of receipt of the written statement, with an additional period of 15 days provided and that too only if the Court is satisfied that the plaintiff has been able to demonstrate that it was prevented to do so by sufficient cause or for exceptional and unavoidable reasons, can the time for filing the replication be extended for a further period not exceeding 15 days in any event, with costs imposed on the plaintiff. The critical phrase "but not thereafter" used in Rule 15 must be understood to mean that even the Court cannot extend the period for filing the replication beyond the outer limit of 45 days provided in the DHC Rules. Upon expiry of the said period, the plaintiff's right to file the replication would stand extinguished. Any other meaning sought to be bestowed on the above provision, would make the words "but not thereafter", inconsequential

27. Since the language of Rule 5 shows that the intention of the Rule making Authority was to exclude the provisions of the Limitation Act, 1963, giving no power to the Court to condone any delay beyond the period of 45 days for accepting the replication, learned Counsel for the appellants/ plaintiffs cannot be heard to state that Rule 16 could have been very well invoked by the learned Single Judge to take on record the belatedly filed replication. The sanctity of the period of 30 days, extendable by another period of 15 days cannot be diluted by giving such an interpretation. In view of the specific provision and the timeline stated in Rule 5 of Chapter VII, that precludes the Court from extending the timeline beyond 45 days for accepting the replication, the argument advanced by Mr. Mehta, learned Counsel for the appellants/ plaintiffs that notwithstanding Rule 5, provisions of Rule 16 and Rule 14 of Chapter I of the DHC Rules empower the Court to take on record, the replication even beyond the period of 45 days and ought to have been resorted to by the learned Single Judge, cannot be accepted.

31. In view of the aforesaid discussion, it is held that in case of any inconsistency, the provisions of the Delhi High Court (Original Side) Rules, 2018 will prevail over the Civil Procedure Code. The inherent powers contemplated in Rule 16 are not to be exercised to overcome the period of limitation expressly prescribed in Rule 5 for filing the replication. Nor can Rule 5 be circumvented by invoking any other provision or even the inherent powers of the Court, contrary to the scheme



of the Rules. The phrase, "but not thereafter" used in Rule 5 makes it crystal clear that the Rule is mandatory in nature and the Court cannot permit the replication to be taken on the record after the plaintiff has exhausted the maximum prescribed period of 45 days. Any other interpretation will result in causing violence to the DHC Rules."

3. A similar view has been reiterated by this Court in the cases of **Charu Agrawal v. Alok Kalia**², **Atlantech Online Services (P) Ltd. v. Google India (P) Ltd**³, and **Amarendra Dhari Singh v. R.C. Nursery (P) Ltd**⁴.

4. In light of the settled legal position, the Court is not inclined to accede to the prayer of the applicant seeking condonation of delay beyond the maximum permissible period of 45 days for filing the replication to the amended written statement of defendant No.1.

5. In view of the aforesaid, the instant application stands dismissed.

CS(OS) 15/2021, I.A. 306/2021, I.A. 2531/2021 and I.A. 8513/2022

6. List on 13.05.2025 before the concerned Joint Registrar for taking up further steps in accordance with law.

PURUSHAINDR KUMAR KAURAV, J

MARCH 26, 2025/DPA/SP

Click here to check corrigendum, if any

² 2023 SCC OnLine Del 1238

³ 2023 SCC OnLine Del 5476

⁴ 2023 SCC OnLine Del 84