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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 180/2025**

SHRI ANIL KUMAR NIJHAWAN

.....Plaintiff

Through: Ms. Amrit Kaur Oberoi,
Adv.

versus

SHRI VINOD KUMAR NIJHAWAN & ORS.

.....Defendants

Through: Mr. Rajiv Bajaj and Ms.
Shivani Bardia, Advs.
(through VC)

CORAM:

**JOINT REGISTRAR (JUDICIAL) SH. GAGANDEEP
JINDAL (DHJS)**

ORDER

25.07.2025

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Proceedings are being conducted through hybrid mode.

**I.A.No.17091/2025 (by defendant no. 1 u/O VIII Rule 1
r/w Section 151 CPC for condonation of delay of 20 days
in filing written statement)**

1. Heard. I have gone through the record.
2. Learned counsel for plaintiff submits that she has no objection if the delay in filing the written statement be condoned as the plaintiff wants to expedite the proceedings. She further argue that the defendant has not filed the affidavit of admission/denial of documents alongwith the written statement, therefore, as per Delhi High Court Rules (Original Side), written statement cannot be taken on record.
3. Ld. Counsel for defendant submits that registry has not raised any objection thereto and will take appropriate steps if required.



4. In the case of **Cosco International Pvt. Ltd. vs Jagat Singh Dugar**, CS(COMM) 1052/2018 has decided on 6th April, 2022 as follow:

“For clarity, it is reiterated that what Order V Rule 1(1) and Order VIII Rule 1 CPC provide is the outer time-limit for filing of the written statement of defence. The filling by the defendant of an affidavit of admission/denial of the plaintiff's documents, is a separate requirement under Chapter VII Rule 3 and 4 of the Delhi High Court (Original Side) Rules, 2018; and the consequence for not filing such affidavit is that the written statement shall not be taken on record and that the plaintiff's documents shall be deemed to be admitted by the defendant. However, the filing of a written statement within the prescribed time but without an accompanying affidavit of admission/denial of documents, does not amount to non-est filing, since it cannot be said that nothing was filed at all. It would, however, amount to a defect, that is required to be cured after it is brought to the attention of the party by the Registry. Chapter VII Rule 3 only bars taking on record a written statement that is filed without an accompanying affidavit of admission/denial of documents. Filing of the written statement and it being taken on record are two separate and distinct matters.”

5. In view of the aforesaid observations, the defect of filing the written statement without affidavit for admission/denial of documents can be cured after it is gone to the knowledge of the parties. But the written statement cannot be discarded. It is also settled law that technicalities of law should not come in the way of justice and endeavour of court should be to decide the lis on merits. Hence, considering the submissions made in the application, the delay in filing written statement on behalf of the defendant no. 1 is condoned and the same is taken on record.

6. The captioned IA stands disposed off accordingly.

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7. Today the written statement filed on behalf of defendant no. 1 has been taken on record. Defendant no.1 is directed to take appropriate steps for filing of affidavit of