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

+ CS(COMM) 449/2021

**BRAHMAPUTRA INFRASTRUCTURE LIMITED.....Plaintiff**

Through: Mr Udit Seth and Mr Roshan Roy,  
Advocates.

versus

**DELHI DEVELOPMENT AUTHORITY .....Defendant**

Through: Ms Shobhana Takiar, Standing  
Counsel for DDA with Ms Latika  
Malhotra, Mr Kuljeet Singh, Mr  
Prateek Dhir, Mr Shivam Takiar  
Advocates for DDA.

**CORAM:**

**HON'BLE MR. JUSTICE VIKAS MAHAJAN**

**ORDER**

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**05.11.2024**

**I.A. 44081/2024 (under Section 151 CPC for exemption)**

1. Allowed, subject to all just exceptions.

**OA No.189/2024**

2. The present OA has been filed by the plaintiff against the order dated 18.11.2022 passed by the learned Joint Registrar whereby the right of the plaintiff to file replication to the written statement of the defendants was closed.

3. Learned counsel for the plaintiff submits that the written statement was filed by the defendant on 02.08.2022, however, the replication was filed on 21.02.2023. He submits that the replication could not be filed within the time prescribed under law as there was a change of counsel and after the new



counsel took over, he passed away on 13.01.2023.

4. However, it is not in dispute that the replication has been filed beyond the period of 45 days. In view of Chapter VII Rule 5 of the Delhi High Court (Original Side) Rules, 2018, the replication has to be filed within a period of 30 days and the said period can be extended for another 15 days and ‘but not thereafter’.

5. The expression ‘but not thereafter’ occurring in the aforesaid has been interpreted by this Court in ***Ram Sarup Lugani & Anr. vs. Nirmal Lugani & Ors., FAO(OS) 47/2020 decided on 19.10.2020*** wherein it was laid down that the maximum period provided for filing replication is 45 days and the said period cannot be extended under any circumstance. The relevant part of the said decision reads thus:

*“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.”*

6. In view of the above position, there is no merit in the present appeal. Accordingly, the same is dismissed.

7. At this stage, learned counsel for the plaintiff submits that in the present OA he has also made a prayer to take on record additional documents filed



along with the replication. Let plaintiff file a separate application for seeking leave of the court to place additional documents on record in accordance with law.

**I.A. 44082/2024 (by the plaintiff under Section 5 of the Limitation Act, 1963)**

8. Since the OA itself has been dismissed, the present application has been rendered infructuous and is disposed of as such.

**VIKAS MAHAJAN, J**

**NOVEMBER 5, 2024  
MK**