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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 300/2025**
NEELAM SHARMA & ANR.

.....Plaintiff
Through: Mr. D V Khatri and Mr. Harshad
Gupta, Advocates.
versus

MS. SHRUTI CHOPRA & ORS.

.....Defendant
Through: Mr. Puneet Goel, Advocate.
CORAM:
JOINT REGISTRAR (JUDICIAL) SH. SUMIT DALAL

% **ORDER**
21.05.2026

IA No. 31106/2025

1. By way of this common order, I shall dispose of I.A. No. 31105/2025 filed on behalf of the defendants under Order VIII Rules 1 and 10 read with Section 151 CPC seeking condonation of delay of 40 days in filing the written statement, and I.A. No. 31106/2025 filed under Section 151 CPC read with the applicable Rules of the Delhi High Court seeking condonation of delay of 40 days in re-filing/curing defects.
2. In I.A. No. 31105/2025, it is stated by the defendants/applicants that summons in the suit were served upon them on 02.07.2025 and that they appeared before the learned Joint Registrar (Judicial) on 21.07.2025. It is further stated that the statutory period of 30 days



expired on 02.08.2025 and that the written statement came to be filed on 11.09.2025, resulting in delay of 40 days. The defendants have sought to explain the delay by referring to certain alleged family meetings, alleged understanding between the parties, alleged delivery of gold ornaments/jewellery worth about Rs.15,00,000/- to the plaintiffs, and subsequent attempts made by the defendants to resolve the dispute after receipt of summons.

3. In I.A. No. 31106/2025, the defendants/applicants have stated that after filing of the written statement, certain defects were pointed out by the Registry. It is stated that due to Diwali/local holidays, illness of the child of one of the parties and certain clerical mistakes, the defects could not be cured within the prescribed period, thereby resulting in delay of 40 days in re-filing/curing defects.
4. No reply has been filed by the plaintiffs to either of the applications. However, learned counsel for the plaintiffs has opposed both applications and has argued that the averments made therein are false, unsupported and no documentary proof has been placed on record by the defendants to substantiate the alleged family settlement, alleged handing over of jewellery/gold ornaments, or the other circumstances pleaded in the applications. It is accordingly submitted that the defendants have failed to show sufficient cause and the applications deserve dismissal.
5. I have heard learned counsel for the parties and have perused the record.
6. At the outset, it may be noticed that though I.A. No. 31105/2025 mentions Order VIII Rule 10 CPC also, the substantive prayer in the



application is for condonation of delay in filing the written statement and for taking the written statement on record. Therefore, the application is being considered in substance as one under Order VIII Rule 1 CPC read with Section 151 CPC and the applicable provisions of the Delhi High Court (Original Side) Rules.

7. The admitted position emerging from the application itself is that the defendants were served on 02.07.2025 and the written statement was filed on 11.09.2025. Thus, the written statement has been filed beyond the initial period of 30 days, but within the overall extendable period available to the Court under the applicable procedural regime. The delay sought to be condoned is of 40 days beyond the initial period.
8. It is correct that the explanation furnished by the defendants is not supported by any independent documentary material. The allegations regarding prior family settlement, alleged handing over of jewellery/gold ornaments, alleged assurance by the plaintiffs and alleged breach thereof are all disputed factual assertions. This Court, while deciding the present applications, is not required to return any finding on the truth or falsity of the said allegations. The said averments shall remain subject to proof, if otherwise relevant and permissible in law, at the appropriate stage. Nothing observed herein shall be treated as acceptance of those allegations.
9. However, for the purpose of considering condonation of delay in filing the written statement, the Court is required to examine whether the delay is such as would justify denial of the defendants' right to place their defence on record, particularly when the written statement has been filed within the outer extendable period and the suit is still at



an initial stage. The delay is not so gross or inordinate as to defeat the proceedings. The plaintiffs have not filed any reply bringing on record any specific prejudice which cannot be compensated by costs. On the other hand, if the written statement is not taken on record, the defendants would be deprived of the opportunity to contest the suit on merits.

10.Procedural rules are intended to advance the cause of justice, though they cannot be treated casually. The defendants have not given a very satisfactory or well-supported explanation, and the objection of the plaintiffs that the allegations are unproved is not without substance. However, considering that the written statement was filed within the condonable period, that no reply has been filed by the plaintiffs, that the suit is yet to proceed to further stages, and that the prejudice caused to the plaintiffs can be compensated by costs, this Court is of the view that the delay in filing the written statement deserves to be condoned subject to appropriate costs.

11.As regards I.A. No. 31106/2025, the delay is in re-filing/curing defects. Delay in re-filing stands on a somewhat different footing from delay in initial filing. Once the written statement was initially filed within the extendable period and the Registry pointed out curable defects, delay in re-filing/curing such defects can be considered with a comparatively liberal approach, provided the initial filing is not shown to be non est and no serious prejudice is caused to the opposite party. There is nothing placed before this Court to show that the initial filing was non est or that the defects were of such nature as to render the filing wholly invalid. The explanation for



re-filing is also general and unsupported, but the delay of 40 days in curing defects, in the facts of the case, can also be compensated by costs.

12. Accordingly, both applications are allowed, subject to costs of **Rs.5000/-**, to be paid by the defendants/applicants to the plaintiffs within two weeks from today.

13. The delay of 40 days in filing the written statement is condoned. The delay of 40 days in re-filing/curing defects is also condoned. The written statement filed on behalf of the defendants be taken on record, subject to payment of costs as directed above and subject to the written statement.

14. The plaintiffs shall be at liberty to file replication, if any, along with affidavit of admission/denial of documents, within the period prescribed under the Rules, reckoned from the date the cost is paid to the Plaintiff.

15. It is clarified that this Court has not expressed any opinion on the merits of the rival claims, the alleged Will, the alleged family settlement, the alleged handing over of jewellery/gold ornaments, or any other disputed factual assertion made in the applications. All rights and contentions of the parties on merits are kept open.

16. I.A. Nos. 31105/2025 and 31106/2025 stand disposed of in the aforesaid terms.

17. List for completion of pleadings on 06.10.2026.

SUMIT DALAL
JOINT REGISTRAR (JUDICIAL)

MAY 21, 2026/LP