



\$~8

\*

+

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

**CS(OS) 503/2021**

**MRS. SHOBHITA KATHPALIA** .....Plaintiff

Through: Ms. Isha Khurana, Adv.

versus

**MR. VIRINDER KUMAR MEHTA & ORS.**

.....Defendants

Through: Mr. Anshuman Gupta, Adv. for  
D-1

D-3 in person for himself and  
POA of D-2 (Mob9818023754)  
(joined through VC)

Ms. Simran Makhija, Adv. for  
D-4 to 6

Mr. Chirag Goyal, Adv. for D-8

Mr. Ankur Singhal, Adv. for D-9

**CORAM:**

**JOINT REGISTRAR (JUDICIAL) MS. PRIYA  
MAHENDRA, (DHJS)**

**ORDER**

%

**30.01.2025**

**IA No.44389/2024 under Section 151 CPC moved by  
the plaintiff seeking condonation of delay in filing  
replication to Written Statement of defendant no.8**

1. Learned respective counsels for the defendant no.2&3 and defendant no.9 already stated that they have no objection to the captioned IA.

2. At this stage, it is stated by learned counsel for the defendant no.8 that he has no objection to the captioned IA.

3. Heard. In view of no objection and in view of reasons stated in the application, the captioned IA stands allowed to the extent that the delay in filing Replication filed by the plaintiff to the Written Statement of defendant no.8 is condoned and the same is allowed to be taken on record. Accordingly, the captioned IA stands disposed of.

**IA No.41959/2024 under Section 151 CPC moved by**



**the plaintiff seeking condonation of delay in filing  
Replication to Written Statement of D-1**

4. As per office note, reply to the captioned IA filed by defendant no.1 is on record but rejoinder to the same has not been filed by the applicant till date. At request, the last and final opportunity is granted to the applicant/plaintiff to file rejoinder within two weeks with copy to the opposite side.

Re-notify the captioned IA for completion of pleadings on the next date of hearing.

**IA 3268/2024 (Application u/S. 5 Limitation Act filed  
by defendant no. 1 for condonation of delay in filing  
reply to the application of plaintiff u/O XXXIX Rule 1  
and 2 CPC i.e. IA 13619/2021)**

5. As per record, proof of cost filed by defendant no.1 is on record.

6. Learned counsel for the plaintiff has no objection to the captioned IA.

7. Heard. In view of no objection and in view of reasons stated in the application, the captioned IA stands allowed as prayed for. Accordingly, the captioned IA stands disposed of.

**IA 3265/2024 (Application u/S. 5 Limitation Act filed  
by defendant no. 1 for condonation of delay in filing  
Written Statement to the counter claim CC No. 21/2022  
filed by defendant no.2&3)**

8. As per record, proof of cost filed by defendant no.1 is on record.

9. Further, reply to the captioned IA filed by defendant no.2&3 and rejoinder to the same filed by the applicant are on record.

10. Learned respective counsels for other defendants as well as the plaintiff already submitted that they do not



wish to file any reply to the captioned IAs.

11. Arguments heard. It is stated in the application that there is delay of about 663 days in filing Written Statement to the Counter Claim by the defendant no.1 from the date of service.

12. The defendant no.3 submits that the Hon'ble Division Bench of Delhi High Court on 23.08.2024 in ***“Manhar Sabharwal Vs. H.C. of Delhi & Ors., 2024 SCC OnLine Del 5945***, upheld constitutional validity of Rule 4 of Chapter VII of Delhi High Court Rules which mandates a strict timeline of 120 days for filing of Written Statement even in non-commercial matter. It also held that the provisions of Delhi High Court Rules will have overriding effect over other provisions of CPC in case of any conflict in view of Section 129 of CPC. Further, it was held that the phrase “but not thereafter” in Rule 4&5 of Delhi High Court Rules is mandatory in nature.

13. On the other hand, learned counsel for the applicant submits that sufficient reasons have been furnished in the captioned IA for explaining the delay of 663 days occasioned in filing Written Statement by defendant no.1 to the Counter Claim filed by defendant no.2&3.

14. I have carefully heard the submissions and perused the records. In the order passed in i) ***Ms. Charu Agarwal Vs. Mr. Alok Kalia & Ors., 2023/DHC/001454*** and 2) ***Ashish Khanna & Ors. Vs. Delhi Gymkhana Club & Ors., MANU/DE/5933/2023***, it is already held that 120 days period for filing Written Statement by the defendant from the date of service of the defendant is non-negotiable and without any exception. The order passed by Hon'ble



Division Bench in ***Manhar Sabharwal (supra)*** has further upheld the said proposition of the law. In view of above, Written Statement filed by defendant no.1 in the Counter Claim having been filed beyond the period of 120 days of service, is ordered to be taken off record. Accordingly, the captioned IA is dismissed and disposed of.

**CS(OS) 503/2021**

15. Proof of cost of Rs.1000/- filed by the defendant no.1 is on record.

16. It is stated by learned counsel for the defendant no.8 that he has already deposited the previous cost of Rs.500/- imposed vide order dated 09.10.2024 with Delhi High Court Legal Services Committee. He is directed to file proof of cost in this regard with the registry within one week.

17. It is already stated by learned counsel for the defendant no.7 that he does not wish to file Written Statement to the amended plaint and will rely on his previous Written Statement filed on behalf of defendant no.7.

**18. Pleadings qua defendant no.2,3,4 to 6 & 7 are already complete.**

19. As per record, the Written Statement filed by defendant no.8 to the amended plaint is already on record. Replication filed by the plaintiff to the Written Statement of defendant no.8 is allowed to be taken on record vide order of even date. **Thus, pleadings qua defendant no.8 are complete.**

20. It is already stated by learned counsel for defendant no.9 that he does not want to file Written Statement as



recorded in the order dated 09.10.2024.

21. An application seeking condonation of delay in filing Replication to the Written Statement of defendant no.1 is pending consideration.

Re-notify the matter for further proceedings on the next date of hearing.

**Counter Claim No.21/2022 filed by D-2&3**

22. Vide order of even date, application filed by defendant no.1 seeking condonation of delay in filing Written Statement to the Counter Claim is dismissed.

23. On perusal of the record, it is found that amended Memo of Parties has not been filed by the counter claimant. The defendant no.3/counter claimant seeks sometime to inspect the file and apprise the court regarding status of pleadings in the Counter Claim on the next date of hearing.

24. Learned counsels for other parties also seek sometime to inspect the file and apprise the status of pleadings in the Counter Claim on the next date of hearing.

Re-notify the matter for further proceedings on **23.04.2025**. All the counsels for the parties are directed to remain present physically on the next date of hearing.

**PRIYA MAHENDRA (DHJS)**  
**JOINT REGISTRAR (JUDICIAL)**  
**JANUARY 30, 2025/ab**

[Click here to check corrigendum, if any](#)