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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(COMM) 729/2025, I.A. 17477/2025, I.A. 23786/2025, I.A. 29259/2025, I.A. 921/2026

M/S LMC COMPUTERS

.....Plaintiff

Through: Mr. Neeraj Grover, Ms. Meenakshi
Ogra, Mr. Tarun Khurana, Mr. Vishnu
Gambhir, Mr. Rajat Sabu and Mr.
Anubhav Gupta, Advocates.

versus

ITHINK APPS PRIVATE LIMITED & ORS.

.....Defendants

Through: Mr. Shailen Bhatia, Ms. Deeksha Gulati
and Ms. Simran Kaur, Advocates for
D-1 and 2.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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14.01.2026

I.A. 29259/2025 (Delay)

1. This is an application under Chapter VII Rule 5 of Delhi High Court (Original Side) Rules, 2018 read with Section 151 of Code of Civil Procedure, 1908 filed on behalf of the applicant/plaintiff seeking condonation of delay in filing the replication.
2. Mr. Neeraj Grover, learned counsel for plaintiff submits that as per Rule 5 of Chapter VII of the Delhi High Court (Original Side) Rules, 2018 (hereinafter referred to as "*the Rules, 2018*"), the time prescribed to file a replication is within 30 days of the receipt of the written statement. The period is extendable by another 15 days at the discretion of the Court, but not thereafter.
3. Mr. Grover submits that on 18.09.2025, the written statement was taken on record by an order of the Joint Registrar (Judicial) condoning the delay,



which had occurred in filing the written statement. He submits that the time limit, according to him, for filing the replication to the written statement would commence from 19.09.2025 and a 30 days' period would expire on 18.10.2025. He submits that calculating 15 days extendable time provided under Rule 5, the extension would expire on 02.11.2025. He states that 02.11.2025 was a Sunday and therefore, on the next working day, i.e., 03.11.2025, the replication was indeed filed.

4. By referring to Section 10 of the General Clauses Act, 1897, he submits that if the Court or the Office concerned is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time, if it is done or taken on the next day afterwards on which the Court or Office is open. Accordingly, he submits that the extended time having expired on 02.11.2025, which was Sunday, the act of filing of the replication on 03.11.2025, though being the 46th day, would, fall within the computation, reckoned as per Section 10 of the General Clauses Act, 1897.

5. That apart, he also relies upon Rule 6 of Chapter I of the Rules, 2018 to submit that Rule 6 reiterates the position of law as stated in Section 10 of the General Clauses Act, 1897.

6. However, Mr. Grover does admit that so far as the service of the replication is concerned, the plaintiff had not served the same on the defendant in terms of Rule 5 and it is only after a few days when the Registry raised an objection of non-service, that the copy of the replication was furnished to the defendant on 10.11.2025.

7. He submits that the delay in filing the replication within 15 days' extended period beyond the prescribed 30 days' period occurred on account of extensive pleadings in the written statement alongwith the fact that there are a number of litigations *inter se* the parties, which required time to collate facts. He submits that in view of the above, the rigor of the replication not being



accepted, unless it is served upon the defendants may not be construed strictly in the present case.

8. Mr. Shailen Bhatia, learned counsel appearing for the defendant vehemently opposes the present application. He submits that no explanation is forthcoming from the plaintiff as to why the replication was not served upon them despite the fact that an e-mail was issued to the plaintiff on 05.11.2025. A copy of the e-mail has been handed over to the bench and taken on record. He relies upon the contents of the said e-mail, which is reproduced hereunder:

“Ma'am,

We act on behalf of the Defendant No. 1 and 2.

We note that you have filed Replication and certain documents vide Diary No 7859118/2025 and 7859198/2025 on 03.11.2025. The same is reflected on the website of the Hon'ble High Court of Delhi.

We have not been served with a copy of the abovementioned pleadings and documents.

Kindly serve the copy of the Replication and the Documents so filed by your goodself.

Please note that the date of 03.11.2025 (as to when you filed the Replication) will not be considered by us as we have not received any document from your goodself in the present matter on the said date.

Regards

Shailen Bhatia

Deeksha Gulati

Advocates”

9. That apart, Mr. Bhatia also submits that the replication was not being served upon the defendants deliberately in order to obtain unfair advantage. He submits that in the interregnum, while the replication was not served, certain steps have been undertaken in the other proceedings which have caused detrimental effect on the interests of the defendant. He submits that the rigor of Rule 5 of Chapter VII of the Rules, 2018 has to be construed strictly, inasmuch as, according to him, the said Rule prohibits the acceptance of the replication



unless it is served upon the defendants. He submits that in that view of the matter, the date of filing of replication may be construed on the date when the said replication was served upon the defendant, i.e., 10.11.2025, which is definitely beyond the extendable 15 days, and thus, the application be rejected and the replication may not be taken on record.

10. This Court has heard the arguments of learned counsel for the parties and perused the position of the rule occurring in the Rules, 2018.

11. So far as the facts are concerned, in respect of the replication having been filed on the 46th day, the 45th day being a Sunday, there is no quarrel that both, Section 10 of the General Clauses Act, 1897 as also Rule 6 of Chapter I of the Rules, 2018 permits filing of such replication, on the day of opening of Court or Office concerned. To that extent, there cannot be any quarrel on the proposition of law.

12. The issue, this Court is called upon to consider and interpret is the second portion of Rule 5 of Chapter VII of the Rules, 2018, which proscribes the acceptance of the replication in case the copy is not served upon the defendant.

13. It would be apposite to extract Rule 5 of Chapter VII of the Rules, 2018 hereunder:

*“5. **Replication.**-The replication, if any, shall be filed within 30 days of receipt of the written statement. If the Court is satisfied that the plaintiff was prevented by sufficient cause for exceptional and unavoidable reasons in filing the replication within 30 days, it may extend the time for filing the same by a further period not exceeding 15 days but not thereafter. For such extension, the plaintiff shall be burdened with costs, as deemed appropriate. The replication shall not be taken on record, unless such costs have been paid/ deposited. In case no replication is filed within the extended time also, the Registrar shall forthwith place the matter for appropriate orders before the Court. An advance copy of the replication together with legible copies of all documents in possession and power of plaintiff, that it seeks to file along with the replication, shall be served on the defendant and the replication together with the said documents shall not be accepted unless it contains an endorsement of service signed by the defendant/*



his Advocate.”

[Emphasis Supplied]

14. It would also be appropriate for this Court to reproduce hereunder Rule 6 of Chapter I of the Rules, 2018, which reads thus:

*“6. **Period how calculated**— Where a particular number of days are prescribed by these Rules or by or under any other law, or is fixed by the Court for doing any act, the starting day from which the said period is to be reckoned shall be excluded, and if the last day expires on a day when the office of the Court is closed for the day or a part thereof, that day and any succeeding day(s) on which the Court remains closed for the day or a part thereof, shall also be excluded.”*

15. In the considered opinion of this Court, so far as Rule 5 is concerned, unexceptionally, the time prescribed of 30 days can only be relaxed or extended to a period of 15 days as provided and not thereafter. This condition brooks no ambiguity and in no case can the replication be taken on record beyond the extended period of 15 days. The reason is not far to see. After all, commercial transactions and disputes arising thereunder need to be swiftly and expeditiously adjudicated and disposed of. The Rules have to be stringent and followed scrupulously.

16. In the present case, on facts, it is not disputed that the replication was indeed filed on the 46th day for the reason that the 45th day was a Sunday and provisions of Section 10 of General Clauses Act, 1897 read with Rule 6 of Chapter I of the Rules, 2018, permit such filing of the replication on the day of opening of the Court.

17. So far as the second part of Rule 5, which proscribes the acceptance of the replication in case of failure of the service of the same upon the defendant is concerned, this Court is unable to read the mandatory nature of the said Rule. It would not be in the interests of justice to consider this prescription as mandatory for the reason that the failure thereof could only be mere irregularity and not an illegality which would strike at the very root of the acceptance of the



replication itself. Though non-acceptance of replication due to non-service as per Rule 5 would be binding upon the Registry, yet non-acceptance of such replication for the lapse of non-service upon the defendant or the counsel cannot be said to be mandatory in nature, being a mere irregularity which can be condoned by the Court.

18. That said, undoubtedly, in the present case, the replication has definitely been filed with a delay of 15 days, which according to Rule 5 cannot be accepted unless the plaintiff is burdened with costs.

19. Accordingly, in view of the aforesaid interpretation, this Court deems appropriate to impose a cost of Rs.1,00,000/- (Rupees One Lakh) upon the plaintiff payable to the defendant within four weeks from date under a proper acknowledgment of the payment of cost. The copy of the acknowledgment shall be filed under a proper index. Subject to such payment, the replication shall be taken on record.

20. The application stands disposed of

I.A. 921/2026 (Directions)

21. This is an application filed on behalf of the applicant-plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of Code of Civil Procedure, 1908, seeking directions to restrain defendant nos.1 and 2 from intimidating, threatening, or coercing the proposed witness of the plaintiff and to secure the interests of justice.

22. Issue notice.

23. Notice accepted by Mr. Shailen Bhatia, learned counsel for defendants who seeks four weeks time to file reply. Rejoinder thereto, if any, be filed by the plaintiff within four weeks' time thereafter.

I.A. 922/2026 (Impleadment)

24. This is an application filed on behalf of applicant-plaintiff under Order I Rule 10 read with Section 151 of Civil Code of Procedure, 1908, for addition of



proposed plaintiff nos. 2 and 3.

25. Mr. Grover, learned counsel appearing for the applicant-plaintiff submits that by virtue of the present application, plaintiff is seeking impleadment of Mr. Mukul Gupta and Ms. Anugya Gupta, as plaintiff nos.2 and 3 in the present suit. They are stated to be partners in the plaintiff and are the registered owners of the subject trade mark as also the domain name.

26. Issue notice.

27. Notice accepted by Mr. Bhatia, learned counsel for defendants, who seeks four weeks' time to file reply. Rejoinder thereto, if any, be filed by the plaintiff within four weeks' time thereafter.

28. List on 21.05.2026.

TUSHAR RAO GEDELA, J

JANUARY 14, 2026

Sumit/Sushant