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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(OS) 592/2025, I.A. 21469/2025, I.A. 21471/2025 & I.A. 7982/2026**

**VINOD GOYAL & ANR.** .....Plaintiffs  
Through: Mr. Gurtejpal Singh, Ms. Namisha Jain  
and Mr. Rahul Yadav, Advocates.

versus

**AJAY GOYAL** .....Defendant  
Through: Mr. Vaibhav Gupta, Advocate.

**CORAM:**  
**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

**ORDER**  
**15.07.2026**

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**I.A. 7731/2026 (Delay)**

1. This is an application under Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC"), read with Section 5 of the Limitation Act, 1963, seeking condonation of delay in filing the replication alongwith documents and the affidavit of admission/denial.
2. Learned counsel for the plaintiff states that though a copy of the written statement was served upon the plaintiff on 06.01.2026, it was an incomplete copy. However, the defendant had, in fact, filed his written statement in the proper manner alongwith the *Vakalatnama*, affidavit of admission/denial of documents and reply to the application seeking delay in filing replication etc., only on 28.01.2026.
3. He states that in case, if the Court considers the 28.01.2026 as the correct date of filing and taking on record the written statement of the defendant, the plaintiff's time to file the replication would be reckoned from the next day, as per the Rules.



4. He states that the replication to the said written statement was, in fact, filed on 26.02.2026. He further states that though, according to him, the replication was filed within time, however, for abundant precaution, in case, the time for filing the replication is reckoned from 15.01.2026, the application may be taken as seeking condonation of delay of 11 days in filing the replication.

5. Heard the learned counsel for the defendant.

6. Having regard to the aforesaid contentions of the learned counsel for the plaintiff, the application is allowed. The replication is directed to be taken on record.

**I.A. 7732/2026 (U/O VIII Rule 1 and Order VIII Rule 10, CPC)**

7. This is an application under Order VIII Rule 1 read with Order VIII Rule 10 and Section 151 of CPC, filed on behalf of the plaintiff, seeking rejection/striking off the written statement of the defendant.

8. Learned counsel for the defendant states that the defendant was served with summons on 28.11.2025 and as per the Rules, the written statement was to be filed within 30 days from the date of service. He states that the 30 days period had expired on 28.12.2025, which was during the Winter Break of the Court and hence, the written statement could not be filed.

9. He states that the written statement was instead filed on 03.01.2026, which was the first day of the re-opening of the Court. He states that, as such, the filing of the written statement was not beyond the stipulated period of time.

10. However, on the other hand, learned counsel for the plaintiff states that the actual filing of the written statement has to be reckoned from 15.01.2026 since the written statement which was filed earlier, according to the defendant, was not taken on record. He also states that having regard to the aforesaid, the written statement ought to be directed to be taken off record.

11. Learned counsel for the defendant states that even if the filing of the



written statement is taken to be on 15.01.2026, the same may, though be beyond the 30 day period, however, it would still be within the extended period of 90 days as stipulated in Order VIII Rule 1, CPC read with the Delhi High Court (Original Side) Rules, 2018.

12. This Court has heard the arguments of learned counsel for the parties.

13. It appears from the overall conspectus of the matter and the facts stated above, that even if it is held that the defendant has filed the written statement only on 15.01.2026, the only default on the part of the defendant is not filing an application seeking condonation of delay.

14. It is well settled that procedure is the handmaid of justice and, as such, cannot deprive a party of any substantive rights.

15. This Court permits the oral prayer for the condonation of delay on behalf of the defendant and, accordingly, condones the delay in filing the written statement beyond the 30-day period reckoned up to 15.01.2026. It is also relevant to note that even if it is considered that the written statement was filed on 28.01.2026, even then the written statement cannot be taken off the record for the reasons that the same is within the extended period of 90 days as provided under the Rules.

16. Accordingly, the application is dismissed directing that the written statement of the defendant be taken on record.

**CS(OS) 592/2025**

17. List on 17.11.2026.

**TUSHAR RAO GEDELA, J**

**JULY 15, 2026**

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