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

+ **CS(OS) 793/2025**

AMIT KHOSLA

.....Plaintiff

Through: Mr. Tanuj Khurana, Mr. Ramandeep Bawa, Mr. Ashutosh Singh and Mr. Shivam Sharma, Advs.

versus

ANISHA V MOTWANI & ORS.

.....Defendants

Through: Mr. Ravinder Kumar Yadav, Mr. Kartikey, Mr. Kanishk Yadav, Ms. Kritika Yadav and Ms. Manisha, Advs. for D-1 & 2.
Mr. Anubhav Singh, Adv. for D-3.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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09.04.2026

I.A. 3458/2026 (by plaintiff under Section 5 of Limitation Act, 1963 read with Section 151 CPC)

1. The present application has been filed by the plaintiff seeking condonation of delay of four days in filing replication.
2. Mr. Tanuj Khurana, learned counsel appearing on behalf of the plaintiff/applicant fairly states that the written statement was filed on 30.11.2025, whereas the replication came to be filed only on 29.01.2026.
3. He submits that though the replication has been filed beyond the period of 45 days, however, in between, the parties were referred to mediation on 03.12.2025 and the period spent before mediation has to be excluded for reckoning the period of limitation to file replication. He places



reliance on the decision of the Co-ordinate Bench of this Court in ***Bharat Singh v. Karan Singh & Ors., 2025 SCC OnLine Del 691.***

4. On the other hand, Mr. Ravinder Kumar Yadav, learned counsel appearing on behalf of defendant nos.1 and 2 places reliance on the decision of the Division Bench of this Court in ***Ram Sarup Lugani & Anr. v. Nirmal Lugani & Ors., 2020 SCC OnLine Del 1353.***

5. Having heard learned counsels for the parties, this Court is of the view that the Division Bench of this Court in ***Ram Sarup Lugani*** (supra) has taken a view that the Court cannot permit replication to be taken on record after the plaintiff has exhausted the maximum period of 45 days. The relevant extract from 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.***

32. In view of the above, we do not find any infirmity in the impugned order whereby the Chamber Appeal filed by the appellants/plaintiffs was dismissed. The present appeal is accordingly dismissed as meritless, along with the pending applications.

(emphasis supplied)

6. The submission that the period spent in the mediation is to be



excluded, the same is noted to be rejected. In ***Amit Tara and Ors. vs. Deepak Tara and Ors: 2024 SCC OnLine Del 7900*** the Division Bench of this Court in the context of written statement has held that the time period mandated under Rule 4 of the Rules cannot be extended beyond 120 days on any ground, including on the ground that mediation/settlement talks were ongoing or pending between the parties during the relevant time for filing of written statement. The relevant extract of the said decision reads thus:

“15. In view of the fact that the constitutional validity of the said Rules has now been upheld in Manhar Sahbarwal (supra) and in view of the decision in Delhi Gymkhana Club Limited (supra), it is settled law that the written statement cannot be filed beyond the period of 120 days prescribed in the DHC (Original Side) rules 2018. Clearly, in the suit, the written statement has been filed beyond the prescribed period under the Rules.

*16. Further, the discretion exercised by the Court to condone the delay in filing of the written statement is limited to a period of 90 days after the initial 30 days’ time period prescribed under the Rules. The said discretion can be exercised if the Court is satisfied that the Defendant was prevented by sufficient cause for exceptional and unavoidable reasons in filing the written statement within the period of 30 days. **Moreover, the time period mandated under the Rule 4 of the Rules cannot be extended beyond 120 days on any ground, including on the ground that mediation/ settlement talks were on going or pending between the parties during the relevant time for filing of written statement.** Ld. Single Judge of this Court in Harjyot Singh v. Manpreet Kaur [2021 SCC OnLine Del 2629], has considered the mandatory nature of Rule 4 vis-à-vis delay in filing to written statement on the ground of pendency of mediation or settlement talk between parties.”*

(emphasis supplied)

7. The analogy that the time spent in mediation shall not be excluded,



equally applies for the purpose of reckoning the time taken for filing the replication.

8. In view of the above decision of the Division Bench of this Court in **Ram Sarup Lugani** (supra), no benefit can be taken by the plaintiff of the decision of the Co-ordinate Bench of this Court in **Bharat Singh** (supra). Even otherwise, the said decision was passed on its own facts. The Court in the said case had acceded to the request of the defendants for deferring the filing of written statement. It is in this backdrop that the Court had concluded that the period spent before mediation is to be excluded.

9. In view of the above, this Court does not find any merit in the application of the plaintiff. Accordingly, the same is dismissed.

I.A. 9720/2026 (by plaintiff under Order XI Rule 14 read with Section 151 CPC)

10. Issue notice.

11. Mr. Ravinder Kumar Yadav, learned counsel appearing on behalf of defendant nos.1 and 2, as well as, Mr. Anubhav Singh, learned counsel appearing on behalf of defendant no.3 accept notice.

12. Let reply be filed within a period of four weeks from today.

13. Rejoinder thereto, if any, be filed before the next date.

14. Re-notify on 09.09.2026.

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15. List before the learned Joint Registrar on 27.07.2026 for completion of pleadings.

VIKAS MAHAJAN, J

APRIL 9, 2026/aj