



\$~3

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

CNR No. DLHC010894122024

+ **CS(COMM) 1090/2024**

BENTLEY SYSTEMS INC & ANR.Plaintiffs

Through: **Ms. Manvi Panwar, Adv.**

versus

MR OM PRAKASH DAS & ORS.Defendants

Through: **Mr. Chandra Sekhar Padhi
and Mr. Tribhuvan, Advs.**

CORAM:

JOINT REGISTRAR (JUDICIAL) MS. SWATI KATIYAR

ORDER

% **03.09.2026**

I.A. 19858/2026 for condonation of delay of 85 days in filing the written statement alongwith affidavit of admission/ denial on behalf of the defendant no. 2 & 3/applicants.

1. The IA is listed for orders.
2. Vide the present application filed under Section 151 read with Order VIII Rule 1 of the Code of Civil Procedure, 1908, defendant no. 2 and 3 seek condonation of delay of 85 days in filing the written statement along with affidavit of admission/denial and for taking the same on record.
3. It is submitted by Ld. Counsel for the defendants that summons were served upon the defendants on 04.02.2025 and that they entered appearance on 11.02.2025. The initial period of thirty days for filing written statement expired on 06.03.2025 and the outer period of 120 days expired on 04.06.2025. It is submitted that the written statement was filed within the condonable limit of 120 days and that the delay occurred on account of time consumed in procuring and going through the relevant record. It is submitted



that no prejudice would be caused to the plaintiff if the delay is condoned whereas grave irreparable prejudice would be caused to defendant no.2 and 3. It is thus prayed that the delay in filing written statement be condoned.

4. Ld. Counsel for plaintiff did not file any reply to the present application but advanced arguments directly. Ld. Counsel for plaintiff argued that there is more than 300 days delay in re-filing the written statement by the defendants and there is no explanation provided for this delay in re-filing. It is further submitted that no condonation of delay has been sought by defendants in re-filing the written statement but only delay in filing written statement has been sought. It is further submitted that defendants have given vague reasons for the delay which does not justify the condonation of delay. Ld. Counsel for plaintiff further submits that no application for condonation of delay was filed with the written statement and hence, in light of decision of Hon'ble High Court of Delhi in Mr. Sunny Sangwan v. Dr. Saurabh Shandilya, 2025:DHC:10230-DB, the written statement cannot be taken on record. It is submitted by Ld. Counsel for plaintiff that the application is without any merit and deserves outright dismissal.

5. In rebuttal, Ld. Counsel for defendants submit that the registry has raised wrong objection to their written statement by stating that their rights have been closed vide order dated 21.05.2025, whereas such was not the position. It is further submitted by Ld. Counsel for defendants that the judgment relied upon by plaintiff is not applicable to their case and that the defects in filing written statement are curable defects. It is thus prayed that the application be allowed and written statement alongwith accompanying affidavits be taken on record in the interest of justice.



6. I have considered the submissions and perused the record carefully.

7. Perusal of record shows that the defendant no.2 and 3 were served with the summons on 04.02.2025.

8. Vide order dated 21.05.2025, it was recorded by my Ld. Predecessor that right to file written statement stands closed for defendant no.1 and 4 and written statement is to be filed by defendant no. 2 and 4, however, in subsequent order dated 12.09.2025, it was clarified by my Ld. Predecessor that written statement is to be filed by defendant no. 2 and 3 and order dated 21.05.2025 stands corrected to that extent.

9. As per the e-filing record, the written statement by defendant no.2 and 3 was filed on 31.05.2025. Upon scrutiny, however, several defects were notified by the Registry on 17.06.2025, which included, non-signing of every page of the written statement, non-filing/attachment of the Statement of Truth and affidavit of admission/denial, non-filing of documents under a separate diary number, non-filing of affidavit of service and deficiencies concerning process fee and that the right to file written statement stands closed vide order dated 21.05.2025. The filing was accordingly marked defective and returned for re-filing. The defects were not cured within the period contemplated under the Delhi High Court (Original Side) Rules, 2018. The e-filing record reflects re-filing after a considerable period on 10.09.2025. Even thereafter, defects continued to subsist, including non-filing of the Statement of Truth and affidavit of admission/denial. The noting made by the registry regarding closing of rights of defendants to file written statement was well within the knowledge of Ld. Counsel for the defendants since the beginning, despite the same,



no application was ever made by the Ld. Counsels for the defendants seeking necessary directions to the registry to rectify the noting and for taking their written statement on record.

10. The matter thereafter came up before the Hon'ble Court on **11.03.2026**, when it was specifically recorded:

“Written statements stated to have been filed on behalf of Defendants No. 2 and 3 are lying under objections. Till date Defendants have taken no steps to bring the written statements on record. Necessary consequences will follow in law.”

Thus, on 11.03.2026, the defendants were expressly put to notice by Hon'ble Court that their written statements continued to remain under objections and had not been brought on record and that necessary consequences will follow.

7. Despite the clear observations of Hon'ble Court made on 11.03.2026, the present application seeking condonation of delay and taking the written statement on record came to be filed only on 21.07.2026. The e-filing record further reflects that even this application was returned under objections and thereafter re-filed. The defendants seek to explain only the delay of 85 days in the initial filing of the written statement by stating that time was consumed in procuring and going through the record, which in itself are vague reasons but no explanation whatsoever has been provided for the subsequent and much longer delay in curing the objections and filing the present application for bringing the written statement on record. Ld. Counsel for defendants has not furnished any explanation qua delay for the period between June 2025 and September 2025, or for the continued failure to cure defects thereafter, despite the written statement admittedly remaining under objections and despite the observations of Hon'ble Court dated 11.03.2026.



8. Chapter IV Rule 3 of the Delhi High Court (Original Side) Rules, 2018 assumes relevance in this regard. A defective pleading/document is required to be re-filed within the period stipulated therein and where it is re-filed beyond the permissible period, the delayed re-filing is required to be accompanied by an application seeking condonation thereof. In *Sunny Sangwan v. Dr. Saurabh Shandilya* (supra), the Hon'ble Division Bench of this Court considered a situation where the written statement had initially been filed but was returned under objections and remained unattended for a prolonged period. The Hon'ble Division Bench emphasised that a party cannot rely merely upon the date of initial filing while remaining indolent in curing defects and bringing the pleading validly on record. It was observed by Hon'ble Court that Rule 3 of Chapter IV permits an aggregate period of 30 days for re-filing and requires an application for condonation where re-filing takes place beyond the permissible period. It was further observed by Hon'ble Court that prolonged failure to rectify objections despite opportunities and directions of the Court demonstrate procedural laxity which cannot be treated as an innocuous irregularity. Thus, the observations made by Hon'ble Court in *Sunny Sangwan* are squarely applicable to the situation involved in the present case. The principle which emerges from *Sunny Sangwan* is that initial presentation of a written statement does not confer an indefinite right upon a litigant to cure objections at its convenience, particularly where the defects remain unattended beyond the prescribed period and no sufficient cause for such delay is furnished. Procedural timelines prescribed for commercial suits, as also the Rules governing curing of defects and re-filing cannot be rendered otiose merely on considerations that defendants would suffer adversely if their written statement is not taken on record.



9. In view of the observations made above and on account of unexplained delay, the application is found without any merit. The defendants have failed to make out sufficient cause for condonation of the delay and, more importantly, for the prolonged failure to cure the objections and bring the written statement on record.

10. Accordingly, **I.A. 19858/2026 stands dismissed.**

CS(COMM) 1090/2024

11. The right of defendant no. 1& 4 to file written statement already stands closed.

12. I.A.19858/2026 filed by defendant no. 2 &3 seeking condonation of delay in filing written statement has been dismissed. Consequently, the written statement of defendant no. 2 & 3 is not taken on record.

13. Since, there is no written statement on record, there is no admission/ denial of documents to be conducted.

14. Let the matter be placed before the Hon'ble Court on 29.09.2026 for further direction.

**SWATI KATIYAR,
JOINT REGISTRAR (JUDICIAL)**

SEPTEMBER 3, 2026/nm