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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 902/2025

RAGHAV TALWAR

.....Plaintiff

Through: Mr. Rajat Asija, Adv. for plaintiff
(Email ID: rajata.law@gmail.com)
(through VC)

versus

SH. SAMARTH SINGH TOMAR

.....Defendant

Through: Mr. Mehul Gupta, Adv. for D-1.
Ms. Yashna Malik, Adv. for D-2
(through VC)

CORAM:

**JOINT REGISTRAR (JUDICIAL) SH. GAGANDEEP
JINDAL (DHJS)**

ORDER

22.07.2026

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Proceedings are being conducted through hybrid mode.

**I.A.No.16326/2026 (by D-2 u/O VIII Rule 1 r/w Section
151 CPC for condonation of delay in filing the written
statement)**

1. It is submitted that the matter is coming up for hearing before the Hon'ble Court on 18.08.2026.
2. Heard.
3. Ld. Counsel for defendant no.2 submits that after being abandoned and withdrawal by plaintiff from the matrimonial home, defendant no. 2 is discharging the dual obligations of both the parents. Defendant No. 2 is also jostling to keep her job intact. The delay in filing the written statement was neither intentional nor deliberate. Therefore it may be condoned.
4. Per contra, Ld. Counsel for plaintiff opposes the application on the ground that no affidavit for



admission/denial of documents has been filed alongwith the written statement therefore the same cannot be taken on record. He further submits that the delay in filing written statement has not been sufficiently explained. Therefore the application is not maintainable.

5. In the case of **Cosco International Pvt. Ltd. vs Jagat Singh Dugar**, CS(COMM) 1052/2018 decided on 6th April, 2022, it has been held as follow:

“For clarity, it is reiterated that what Order V Rule 1(1) and Order VIII Rule 1 CPC provide is the outer time-limit for filing of the written statement of defence. The filling by the defendant of an affidavit of admission/denial of the plaintiff's documents, is a separate requirement under Chapter VII Rule 3 and 4 of the Delhi High Court (Original Side) Rules, 2018; and the consequence for not filing such affidavit is that the written statement shall not be taken on record and that the plaintiff's documents shall be deemed to be admitted by the defendant. However, the filing of a written statement within the prescribed time but without an accompanying affidavit of admission/denial of documents, does not amount to non-est filing, since it cannot be said that nothing was filed at all. It would, however, amount to a defect, that is required to be cured after it is brought to the attention of the party by the Registry. Chapter VII Rule 3 only bars taking on record a written statement that is filed without an accompanying affidavit of admission/denial of documents.....”

6. In view of the aforesaid observations, the defect of filing the written statement without affidavit for admission/denial of documents can be cured after it is brought to the knowledge of the parties. But the written statement cannot be discarded only on this ground as per the e-filing log the registry has not raised any such objection that the written statement on behalf of defendant no.2 has been filed without affidavit for admission/denial of documents.
7. It is also settled law that technicalities of law should not come in the way of justice and endeavour of court should be to decide the lis on merits. Therefore, considering the



submissions made on behalf of defendant no.2, the delay in filing written statement is condoned subject to cost of Rs.5000/- to be paid to the plaintiff within two weeks.

8. The captioned IA is disposed off accordingly.

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9. The right of defendant no.1 to file written statement and affidavit for admission/denial of documents has already been closed.

10. Today delay in filing the written statement on behalf of defendant no.2 has been condoned. Defendant no. 2 is directed to file admission/denial of documents within two weeks otherwise it shall be deemed as the defendant no. 2 has admitted all the documents filed on behalf of plaintiff.

11. It is open to the Plaintiff to file replications within 30 days from receipt of the written statements along with affidavit of admission/denial of documents filed by the Defendant no.2.

12. Re-notify the matter for completion of pleadings and further proceedings on **28th September, 2026**.

**GAGANDEEP JINDAL (DHJS)
JOINT REGISTRAR (JUDICIAL)**

JULY 22, 2026/PU

Click here to check corrigendum, if any