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

+ **CS(COMM) 1058/2018**

BUNDELA BANDHU CONSTRUCTION CO.Plaintiff

Through: Mr. S.N. Pandey, Advocate.

versus

NATIONAL PROJECT CONSTRUCTION CORPORATION LTD.

.....Defendant

Through: Mr. Rajat Arora and Ms. Mariya Shahab, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

05.08.2025

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I.A. 19873/2022

1. This application is filed on behalf of the Plaintiff under Section 5 of the Limitation Act read with Section 151 CPC for condonation of delay of 613 days in filing the replication and for taking the same on record.

2. It is urged on behalf of the Plaintiff that the replication could not be filed within the permissible period owing to the old age and ill-health of the Plaintiff, who is unable to undertake long journeys from Lalitpur, U.P. to Delhi to prepare and sign the replication. Application is opposed on behalf of the Defendant on the ground that the replication was filed on 28.08.2022 i.e., almost after two years from the date of receipt of written statement. It is a settled law that statutory time limit of 45 days in filing replication cannot be breached and Court has no power to condone the delay and extend the



statutory time limit.

3. After hearing the counsels for the parties, I find merit in the stand taken by the Defendant. It needs no reiteration that Rule 5 of Chapter VII of Delhi High Court (Original Side) Rules, 2018 provides that replication shall be filed by the Plaintiff within 30 days of receipt of written statement with an additional period of 15 days if the Court is satisfied that Plaintiff has made out sufficient cause that prevented Plaintiff from filing replication within 30 days of/or exceptional and unavoidable reasons. Division Bench of this Court in ***Ram Sarup Lugani and Another v. Nirmal Lugani and Others, 2020 SCC OnLine Del 1353***, has held that the expression ‘*but not thereafter*’ used in Rule 5 makes it crystal clear that the Rule is mandatory and Court cannot permit the replication to be taken on record after Plaintiff has exhausted the maximum period of 45 days and any other interpretation will result in causing violence to Delhi High Court Rules. Relevant passages from the judgment are extracted hereunder, for ease of reference:-

“21. A conspectus of the decisions referred to above leaves no manner of doubt that where ever the phrase “but not thereafter” has been used in a provision for setting a deadline, the intention of the legislature is to treat the same as a preemptory provision. Thus, if Rule 15 of the DHC Rules mandates filing of a replication within a period of 30 days reckoned from the date of receipt of the written statement, with an additional period of 15 days provided and that too only if the court is satisfied that the plaintiff has been able to demonstrate that it was prevented to do so by sufficient cause or for exceptional and unavoidable reasons, can the time for filing the replication be extended for a further period not exceeding 15 days in any event, with costs imposed on the plaintiff. The critical phrase “but not thereafter” used in Rule 15 must be understood to mean that even the court cannot extend the period for filing the replication beyond the outer limit of 45 days provided in the DHC Rules. Upon expiry of the said period, the plaintiff’s right to file the replication would stand extinguished. Any other meaning sought to be bestowed on the above provision, would make the words “but not thereafter”, inconsequential.

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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.”

4. It is admitted that the replication was not filed within the maximum period of 45 days and there is a gross and unexplained delay of 613 days, which cannot be condoned. At this stage, counsel for the Plaintiff submits that the delay is also on account of Pandemic COVID-19. I am afraid this argument cannot help the Plaintiff since the limitation period for filing the replication expired in March, 2019 and the benefit of the judgment of the Supreme Court owing to COVID-19 for excluding the limitation period was from 15.03.2020 to 28.02.2022.

5. The application is accordingly dismissed.

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6. List before the learned Joint Registrar on 03.09.2025.

JYOTI SINGH, J

AUGUST 5, 2025/RW/YA