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

+ RC.REV. 310/2017

MOHD NADEEM .....Petitioner

Through: Mr. Jabbar Hussain, Advocate.

versus

MOHD WASIQ .....Respondent

Through:

**CORAM:**  
**HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI**

**ORDER**  
**29.04.2025**

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**CM APPL. 19280/2025**

By way of the present application filed under section 5 of the Limitation Act 1963 read with section 151 of the Code of Civil Procedure 1908 ('CPC'), the petitioner seeks condonation of about 06 days' delay in *filing* the restoration application.

2. For the reasons stated in the application, which is duly supported by affidavit, the delay is condoned.
3. The application is accordingly allowed.

**CM APPL. 19279/2025 (For Restoration)**

4. By way of the present application filed under section 151 CPC, the petitioner seeks recall of order dated 12.02.2025, *vide* which order, the petition was dismissed in default and for non-prosecution.
5. Mr. Jabbar Hussain, learned counsel appearing for the petitioner submits, that by way of the present petition filed under section



25-B(8) of the Delhi Rent Control Act ('DRC Act'), the petitioner had challenged judgment dated 06.06.2017 passed by the learned Pilot Court, Tis Hazari Courts, Delhi, whereby the eviction petition filed by the petitioner under section 14(1)(e) of the DRC Act was dismissed after trial.

6. Learned counsel submits, that *vide* order dated 14.07.2017, the present petition was admitted to hearing and was directed to be placed in the 'Regulars' category. It is pointed-out that thereafter the matter was listed in 2017 and 2018 on certain dates for completion of service and requisitioning of trial court record; after which the matter never got listed until 04.01.2023. It is pointed-out that a perusal of order dated 04.01.2023 would show that neither of the parties was present in court on that date, since they had no notice of the matter coming-up on that date. Mr. Hussain further submits, that the petitioner appeared before the court 02 days thereafter *i.e.*, on 06.01.2023, on which date the respondent sought an adjournment in the case. It is submitted that on the said date, the matter was adjourned to 17.01.2023, but perhaps by reason of inadvertence, the matter was not listed until 12.12.2024.
7. Learned counsel submits that the petitioner was unaware of the listing of the matter on 12.12.2024; and as will be seen from the order-sheets of that date, neither of the parties was represented on that date as well.
8. Mr. Hussain submits, that it is in this backdrop that the petition came to be dismissed in default and for non-prosecution *vide* order dated 12.02.2025.



9. A perusal of order-sheets in the matter confirms the afore-mentioned position.
10. Learned counsel submits, that the failure on the part of the petitioner to remain present or be represented on 12.12.2024 and 12.02.2025 was neither intentional nor deliberate; and was simply by reason of the circumstances as explained above; and that serious prejudice would be caused to the petitioner if the present petition is not restored, since the petitioner, being the landlord of the subject premises, would be denied the opportunity of recovering possession of the subject premises, which is located in the prime commercial area of Sadar Bazar, Delhi. It is pointed-out that the respondent has been a tenant in the subject premises for several decades at a meagre rent of Rs.350/- per month.
11. Since the record shows that the even the respondent had neither appeared nor was he represented in court on 12.12.2024 and 12.02.2025, it is not considered necessary to issue notice on the present application.
12. The application is allowed; and the revision petition is restored to its original position and number.
13. Let a copy of this order be served upon the respondent by the petitioner, including through counsel, who had appeared for the respondent in the matter on earlier dates.
14. Re-notify on 25<sup>th</sup> August 2025.
15. The order shall however be *subject to* the petitioner paying costs of Rs.5,000/- to Friendicoes SECA, No.271 & 273, Defence Colony Flyover Market, Jungpura, New Delhi within 02 weeks.



16. Petitioner is directed to place on record proof of payment of costs.
17. The Registry is directed to re-list the matter if costs are not paid as directed.
18. The application stands disposed-of in the above terms.

**ANUP JAIRAM BHAMBHANI, J**

**APRIL 29, 2025/ak**