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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 3439/2015

THAKUR DASS

.....Plaintiff

Through: Mr. Jawahar Narang, Adv.

versus

DEVINDER & OTHERS

.....Defendant

Through: Mr. Sunil Dahiya, Adv.
(appeared through VC) & Mr.
Krishan, Adv.

CORAM:

**JOINT REGISTRAR (JUDICIAL) SH. SUMIT
DALAL**

ORDER

25.04.2026

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The matter was listed for 03.03.2026. However, file is taken up today in terms of the Notification No.64/G-4/Genl.-I/DHC, dated 27.02.2026

I.A.No.10347/2026 (under Section 5 of the Limitation Act filed on behalf of the plaintiff for condonation of delay in filing the evidence by way of affidavit of the plaintiff's witness)

1. By way of the present application, the plaintiffs seek condonation of delay in filing the evidence by way of affidavit of their witness, Sh. Sultan Singh Khatri. It is stated that vide order dated 28.11.2025, four weeks' time was granted to file the evidence by way of affidavit. As per the applicant/plaintiffs, the affidavit was required to be filed by 28.12.2025, however, the



same was filed 17.02.2026 vide Diary No. 98515/2026, resulting in delay of about 60 days.

2. The reason stated in the application is that in the meantime, elections of the Bar Council of Delhi were declared; the brother of the witness was contesting the said election and a friend of the learned counsel was also contesting the election, due to which the evidence by way of affidavit could not be finalized within time. It is submitted that the delay was neither intentional nor deliberate and that the plaintiffs shall suffer irreparable loss if the delay is not condoned.
3. No reply to the application has been filed on behalf of the defendants. Learned counsel for the defendants has chosen to address oral arguments straightaway. It is submitted on behalf of the defendants that the plaintiffs are adopting delaying tactics and that the delay is causing prejudice to the defendants, as the proceedings are being unnecessarily prolonged.
4. I have heard learned counsel for the parties and perused the record.
5. At the outset, it may be observed that the reason furnished by the plaintiffs is not very happily worded and, strictly speaking, participation of relatives or acquaintances in Bar Council elections cannot by itself be treated as a complete and compelling explanation for non-compliance with a timeline granted by the Court. A party who has been granted time by the Court is expected to act with due diligence and ensure that procedural directions are complied with within the time granted.



6. However, at the same time, the delay in the present case is of about 60 days and the evidence by way of affidavit has already been filed on 27.02.2026. The present matter is at the stage of plaintiffs' evidence and refusal to take the affidavit on record would have the consequence of shutting out the evidence of the plaintiffs' witness on account of delay. Such a course, in the facts of the present case, would be disproportionate, particularly when the defendants' right to cross-examine the witness and to raise all legally permissible objections remains fully protected.
7. The procedural timelines fixed by the Court are required to be respected and cannot be treated casually. At the same time, procedure is intended to advance adjudication on merits and not to defeat it, unless the conduct of the party is found to be mala fide, contumacious or incapable of being compensated by costs. In the present case, though the explanation offered by the plaintiffs is not very satisfactory, the delay does not appear to be of such nature that the plaintiffs should be deprived of leading the evidence altogether. The prejudice, if any, caused to the defendants on account of delay can be adequately balanced by imposition of costs and by ensuring that no further unnecessary adjournment is granted to the plaintiffs for this purpose.
8. Accordingly, the application is allowed, subject to payment of costs of **Rs. 3,000/-** by the plaintiffs to the defendants. The costs shall be paid on or before the next date of hearing.



9. Subject to payment of costs, the delay in filing the evidence by way of affidavit of Sh. Sultan Singh Khatri is condoned and the evidence by way of affidavit filed vide Diary No. 98515/2026 is taken on record.

10. The application stands disposed of in the above terms.

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11. As per office note, summons issued to the witness has been served.

12. Mr. Swarn Kumar, Patwari from the office of SDM, Narela appears and submits that the summoned witness could not come today as he is on leave today.

13. Issue fresh summons to the witness, in terms of the order dated 06.04.2026, returnable on **09.09.2026 at 2:30pm**. Dasti summons be also given.

**SUMIT DALAL
JOINT REGISTRAR (JUDICIAL)**

APRIL 25, 2026/nk