

**Smt. Sunita Negi Vs. M/s Continental Intra-Tech Pvt. Ltd. & Ors.
COMS No. 6 of 2019**

24.09.2024 Present: Mr. Anand Sharma, Senior Advocate, with Mr. Karan Sharma, Advocate, for the plaintiff.

Mr. Dibender Ghosh, Advocate, for defendants No.1 & 2.

Mr. Y.P. Sood, Advocate, for defendant No.3.

OMP No. 835 of 2024

By way of this application, a prayer has been made for condonation of delay of 26 days in filing the written statement.

Learned Counsel for the applicant submits that the applicant was not an original defendant in the civil suit but filed an application for its impleadment, which was allowed by the Court. He further submits that the impleadment was ordered by the Court on 14.05.2024 and as from the said date, there is a delay of 26 days in filing the written statement beyond the period of 30 days. He further submits that as the delay in filing the written statement is bona-fide and further as the same is within the extended statutory period prescribed in the proviso to Order 8, Rule 1 of the Code of Civil Procedure as is applicable to the commercial suit, therefore, the application be allowed and the delay in filing the written statement be condoned.

Learned Senior Counsel appearing for the plaintiff, on the other hand, submits that there is no cogent explanation spelled out in the application as to why the written statement could not be filed within the statutory period of 30 days. He further submits that otherwise also, in case the delay is to be condoned, it has to be subject to the payment of cost.

Having heard learned Counsel for the parties and having perused the averments made in the application, though delay in filing the application beyond the period of 30 days is of 26 days, but the reason as has been given the application is that as the applicant was under the bona-fide impression that written statement would be filed within 90 days.

Be that as it may, as the written statement has been filed within the extended period as provided in the proviso to Order 8, Rule 1 of the Code of Civil Procedure, this application is allowed. 26 days delay in filing the written statement is condoned and the written statement is ordered to be taken on record, subject to payment of cost of Rs. 10,000/- to the plaintiff, within a period of four weeks.

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Replication to the written statement be filed by the plaintiff, within a period of two weeks. In the meanwhile, pleadings be also completed with regard to OMPs, which are pending.

(Ajay Mohan Goel)
Judge

September 24, 2024
(Shivank Thakur)