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

% **Date of Decision: 26th February, 2026**

+ CS(OS) 340/2025 & O.A. 28/2026

SUMEET RAI

.....Plaintiff

Through: Ms. Kirit Mewar, Advocate
Mob: 7204073750
Email: lexalliance.kirti@gmail.com

versus

SHASHI PRABHA & ORS.

.....Defendants

Through: Mr. Rajesh Kr. Malhotra, Advocate
for D-1, 3, 4
Mob: 9810297948
Mr. Raghu Vasishth, Advocate with
Ms. Saransh Sharma, Advocate for D-
2
M: 9873632733
Email: raghuvasishth19@gmail.com

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

MINI PUSHKARNA, J (ORAL):

O.A. 28/2026

1. The present chamber appeal has been filed on behalf of defendant no. 2, under Chapter II Rule 5 of the Delhi High Court (Original Side) Rules, 2018, read with Section 151 of the Code of Civil Procedure, 1908 ("CPC"), against the order dated 22nd January, 2026, passed by the learned Joint Registrar (Judicial).

2. By way of the aforesaid order dated 22nd January, 2026, the learned Joint Registrar (Judicial) had dismissed the application filed on behalf of



defendant no. 2, i.e., I.A. 30220/2025, under Order VIII Rule 1 of the CPC, read with Chapter VII Rule 4 of the Delhi High Court (Original Side) Rules, 2018, by which the defendant no. 2 had sought condonation of delay in filing written statement.

3. Learned counsel appearing for defendant no. 2 submits that the defendant no. 2 entered appearance before this Court on 09th October, 2025. It is submitted that the documents which the defendant no. 2 had received, were incomplete and illegible.

4. He, thus, submits that a request on that account was made before the learned Joint Registrar (Judicial).

5. He submits that it was only on 09th October, 2025 that the full set of the plaint along with documents was handed over to the defendant no. 2.

6. Learned counsel appearing for the plaintiff confirms the aforesaid fact and submits that full set of the plaint, along with the documents, was handed over to learned counsel appearing for defendant no. 2 on 09th October, 2025.

7. It is to be noted that in the case of *ITD Cementation India Limited Versus Indian Oil Corporation Limited and Another, 2023 SCC OnLine Del 6263*, this Court had held in categorical terms that service in the suit cannot be said to be complete unless complete paperbook of the suit has been supplied to the defendant. Paras 12 to 14 of the said judgment in this regard, reads as under:

xxx xxx xxx

12. Thus, it is clear that a plaint is required to be accompanied by full set of documents as filed on behalf of the plaintiff for service upon the defendants. In the present case, though the summons were served upon the Appellant/defendant no. 1 on 04th January, 2018, the same cannot be considered to be a complete service. This is for the reason that additional documents were filed by plaintiff firstly on



20th February, 2018 and secondly on 19th April, 2018. **Therefore, only when complete set of documents were supplied to the Appellant/defendant no. 1 by the plaintiff on 19th April, 2018 that the service to Appellant/defendant no. 1 was completed.**

13. Similarly, in the case of Sunil Alagh v. Shivraj Puri³, this Court has held in categorical terms that service in the suit cannot be said to be complete unless complete paper book of the suit is supplied to defendants. Thus, it has been held as follows:

“4. In my opinion the service of the defendant no. 1 in the suit cannot be said to be complete unless complete paper book of the suit is supplied to the defendant no. 1. Surely it cannot be the position in law that even if the defendant has not been supplied with the paper book of the suit yet the period of 120 days will commence for filing of the written statement failing which the right to file written statement shall stand closed.

5. From the order dated 10.04.2007, as reproduced above, it is quite clear that the copy of the plaint and documents was supplied by counsel for the plaintiff to counsel for defendant no. 1 on 10.04.2017. Merely because such a prayer was not made earlier would not mean that defendant no. 1 would have received copy of the paper book prior to 10.04.2017. The period of 120 days will therefore necessarily commence only on 10.4.2017 and not earlier.”

14. In view of the aforesaid discussion, it is evident that the service can be said to be completed upon Appellant/defendant no. 1 only on 19th April, 2018 when further additional documents filed by plaintiff were served upon it. In view thereof, the written statement filed on behalf of Appellant/defendant no. 1 on 05th May, 2018 was within limitation.

xxx xxx xxx

(Emphasis Supplied)

8. Accordingly, in the facts and circumstances of the present case, service to defendant no. 2 can be said to be effective only on 09th October, 2025, when as per the admission of learned counsel appearing for the plaintiff, full set of the plaint along with the documents, was supplied to learned counsel for defendant no. 2.

9. This Court notes that the period of thirty (30) days for filing the



written statement counted from 09th October, 2025, expired on 08th November, 2025. The written statement was filed by the defendant no. 2 on 24th November, 2025, with a delay of fifteen (15) days.

10. Clearly, the delay in filing the written statement is within the statutory outer limit of one hundred twenty (120) days.

11. Accordingly, considering the submissions made before this Court, and considering the date of service to defendant no. 2, as 09th October, 2025, in view of the categorical statement made by learned counsel appearing for the plaintiff, this Court is of the considered view that the written statement filed on behalf of the defendant no. 2 is within the one hundred twenty (120) days of the effective service upon defendant no. 2.

12. Thus, the delay in filing the written statement by defendant no. 2 is condoned. The written statement filed on behalf of defendant no. 2 is taken on record.

13. The appeal is allowed in the aforesaid terms, and the impugned order dated 22nd January, 2026, passed by the learned Joint Registrar (Judicial), is accordingly set aside.

14. The present appeal stands disposed of in the aforesaid terms..

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15. Since, the written statement filed on behalf of defendant no. 2 has been taken on record by today's order, liberty is granted to the plaintiff to file replication, within the statutory period, which shall be counted from today.

16. Learned counsel appearing for defendant nos. 1, 3 and 4 are also granted liberty to file an affidavit in response to the written statement, filed on behalf of defendant no. 2, within a period of six (06) weeks, from today.



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17. Let the needful be done, within a period of four (04) weeks, from today.
18. At this stage, learned counsel appearing for the parties are *ad idem* that since the present suit is a suit for partition and all the parties are family members, the matter can be referred to mediation.
19. Accordingly, with the consent of the parties, the matter is referred to Delhi High Court Mediation and Conciliation Centre, to be listed before the Senior Mediator on 09th March, 2026.
20. List before the Joint Registrar (Judicial) on the date already fixed, i.e., 20th March, 2026.
21. List before the Court on the date already fixed, i.e., 30th March, 2026.
22. A copy of this order shall be sent to Delhi High Court Mediation and Conciliation Centre, forthwith.

MINI PUSHKARNA, J

FEBRUARY 26, 2026/SK