



2025:DHC:7892



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

**BEFORE**

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

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**CS(OS) 1159/2014**

**ANJU**

**@ ANJU BALA**

**W/O LATE SHRIHARI OM RANA**

.....Plaintiff No.1

**BHARTI RANA (MINOR)**

**D/O OF LATE SHRI H.\RI OM RANA**

**REPRESENTED BY ANJU @ ANJU BALA**

**AD-LITEM REAL MOTITER &**

**NATURAL GUARDIAN**

.....Plaintiff No.2.

**BOTH**

**R/O A/381-A, PALAL/I VIHAR**

**GURGAON, HARYANA.**

**ALSO AT**

**C/O MANOJ KUMAR GRISHA**

**WZ-5, NANGLI JALIB,**

**JANAKPURI, NEW DELHI**

*(Through: Mr. Anil K. Aggarwal and Mr. B. N. Sharma, Advs.)*

**versus**

**RAMPAL**

**S/O BADLU**

**R/O VILLAGE BAJGHERA**

**TEHSIL & DISTT. GURGOAN**

**HARYANA.**

.....Defendant No.1



2025:DHC:7892

**STATE BANK OF INDIA****VILLAGE BAMNOLI****SECTOR 28, DWARKA****NEW DELHI****THROUGH ITS BRANCH MANAGER**

.....Defendant No.2

*(Through: Mr. Anupam Lal Das, Sr adv with Mr. Ujjwal Jha, Mr Anirudh Singh and Mr. Rohan Gupta, for D-1.)*

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Reserved on: 20.08.2025

Pronounced on: 08.09.2025

### **JUDGMENT**

**I.A. 5760/2024 (for condonation of delay of 104 days in compliance of the order dated 11.10.2023) and I.A. 3830/2025 (for condonation of delay of 2 days in compliance of the order dated 12.03.2024)**

The instant applications have been filed by defendant No.1 seeking condonation of delay in compliance with orders dated 11.10.2023 and 12.03.2024, whereby defendant No.1 was granted conditional leave to defend and was directed to furnish a security of Rs 1.20 crores.

2. The present suit has been instituted by the plaintiffs, Anju @ Anju Bala, widow of late Mr. Hari Om Rana, and her minor daughter Bharti Rana. The plaintiffs allege that after the death of late Mr. Hari Om Rana (*hereinafter referred to as 'the deceased'*) on 07.10.2008, defendant No.1, namely, Mr. Rampal, father of the deceased and father-in-law of plaintiff no. 1 herein and, officials of State Bank of India (*hereinafter referred to as 'the defendant-Bank'*), conspired to suppress and misappropriate the deceased's bank accounts, fixed deposits, and related documents. It is



further averred that defendant No.1, along with others, wrongfully confined plaintiff No.1 for over six months and during that period, illegally removed papers pertaining to both movable and immovable properties of the deceased.

3. It is also the case of the plaintiffs that the deceased had deposited the proceeds of the sale of land, amounting to approximately Rs. 3.5 crores, in his accounts with the defendant-Bank. As per the case set up by the plaintiffs, despite repeated inquiries and earlier suits for mandatory injunction compelling disclosure, the defendant-Bank initially denied existence of accounts, but subsequent disclosures revealed irregularities, fraudulent nominations, and misappropriation of funds, including premature encashment of an FDR amounting to Rs. 1,12,19,339/- by defendant No. 1, as well as the failure to return substantial loan amounts advanced by the deceased.

4. It is further the plaintiffs' case that the deceased had advanced a total loan of Rs. 1.86 crores to defendant No. 1, of which only Rs. 50 lakhs along with interest of Rs. 5 lakh was repaid during his lifetime, leaving Rs. 1.36 crores unpaid, along with accrued interest. Additionally, it is averred that an FDR of Rs. 1 crore created by the deceased got matured and was fraudulently encashed after his death through a false nomination in favor of defendant No. 1.

5. The plaintiffs contend that being the legal heirs of the deceased, they are rightful claimants of the said amounts, which have been wrongfully misappropriated by the defendants. The total claim amounts to Rs. 4 crores as on the date of filing, inclusive of principal and interest.

6. The plaintiffs, therefore, seek a decree for the said sum against



defendant No. 1, along with pendente lite and future interest at 18% per annum, costs of the suit, and other reliefs deemed fit by the Court.

**Proceedings before the Court**

7. The present suit has been instituted under Order XXXVII of the Code of Civil Procedure, 1908, (*hereinafter referred to as 'CPC'*) and *vide* order dated 11.04.2019, conditional leave to defend was granted to defendant No. 1, subject to the deposit of Rs. 4 crores. The aforementioned order was assailed by the plaintiffs and defendant No. 1 before the Division Bench. The Division Bench, *vide* judgment dated 11.10.2023, passed in FAO (OS) 103/2019, modified the said condition by reducing the security amount to Rs. 1.20 crores, to be furnished within a period of six weeks before the Registrar General of this Court.

8. Subsequent thereto, defendant No. 1 preferred a Special Leave Petition bearing No. 26488/2023 before the Supreme Court on 20.11.2023, challenging the judgment dated 11.10.2023. The same came to be dismissed on 27.02.2024. Assailing the said order, the plaintiff also preferred an SLP, but the same was also dismissed on 17.02.2024.

9. On 08.03.2024, defendant No. 1 filed one of the instant IA No. 5760/2024, invoking Section 151 of CPC, seeking condonation of delay of 104 days in furnishing the security. The said application was allowed on 12.03.2024, granting two weeks' further time to the defendant No.1. However, the plaintiff no.1, alleging that she was not served or heard at the stage of consideration of the instant application, immediately moved IA No. 7798/2024 seeking recall of the order dated 12.03.2024.

10. *Vide* order dated 08.04.2024, the Court recalled the order condoning



delay and directed that the security papers furnished by the defendant No.1 shall be subject to verification and further orders of this Court. Subsequently, *vide* order dated 21.05.2024, the Court clarified that the process of verification of security papers by the Registrar shall continue. On 20.09.2024, it was noted that verification was still pending as the report of the Sub-Registrar/SDM with respect to the valuation of the subject land had not been received. On 07.02.2025, it was further pointed out that defendant No.1 had delayed the compliance of the order dated 12.03.2024 by two additional days, leading to the filing of IA No. 3830/2025 seeking condonation of the said delay.

11. Arguments were advanced on the instant applications, and learned counsel for the parties were heard extensively.

### Submissions

12. Mr. Anupam Lal Das, learned senior counsel appearing for defendant No. 1, submits that the delay in furnishing the security, as directed *vide* order dated 11.10.2023, has occurred for *bona fide* reasons and not due to any negligence or wilful omission on the part of defendant No. 1. He submits that the order dated 11.10.2023 passed by the Division Bench was challenged by defendant No. 1 before the Supreme Court by way of an SLP, which came to be dismissed on 27.02.2024. The said challenge, it is urged, was preferred within the six weeks' granted by the Division Bench for the deposit of security. The delay, therefore, according to Mr. Lal, is solely on account of defendant No. 1 exercising his legal right to seek leave to appeal under Article 136 of the Constitution of India, 1950 and not due to any lapse on his part.

13. Mr. Lal further submits that the Court, in exercise of its powers under



Section 148 of CPC, is empowered to extend the time for doing any act prescribed or permitted under the CPC, even if the period originally fixed or granted has expired. He contends that the Court, thus, has the jurisdiction and discretion to condone the delay and accept the security already furnished by defendant No. 1 in compliance with the order of the Division Bench. It is further submitted that no prejudice shall be caused to the plaintiffs if the delay is condoned, whereas irreparable prejudice would be caused to defendant No. 1, if the same is not condoned despite the *bona fide* circumstances narrated hereinabove. Accordingly, he prays that the Court may consider to condone the delay and accept the security furnished by defendant No. 1, in the interest of justice.

14. *Per contra*, Mr. Anil K. Aggarwal, learned counsel for the plaintiff, submits that in the present case, the time for complying with the conditions precedent for leave to defend was fixed by the Division Bench. He submits that the said judgment conclusively determined all issues relating to the defendant's leave to defend the suit, including the quantum of security and the period within which it was to be furnished. Consequently, according to him, the Court does not have jurisdiction over these issues. Learned counsel also contends that once the time has been fixed by the Division Bench, this Court, being a subordinate forum, has no jurisdiction under Section 148 of CPC, or otherwise, to extend such time. Reliance is placed on the decision of the Allahabad High Court in *Allahabad Development Authority v. Saifuddin & Ors.*<sup>1</sup>, wherein it was held that the power under Section 148 of CPC vests only in the Court which passed the order fixing the time and not in a subordinate Court.



15. Mr. Aggarwal submits that failure of the defendant to comply with the condition precedent automatically results in dismissal of leave to defend and consequently, the plaintiffs become entitled to a summary judgment forthwith under Order XXXVII Rule 3(6)(b) of CPC. According to him, the defendant No.1, having failed to furnish security within the stipulated time, lost the right to defend. Reliance is placed on the decisions of various Courts in *Buta Singh Shankar Singh v. State*<sup>2</sup>, *Sam Higginbottom Institute of Agriculture, Technology and Science v. Acurite Contractors and Engineers*<sup>3</sup>. Reliance is also placed on the decision of the Supreme Court in *Ajay Bansal v. Anup Mehta & Ors*<sup>4</sup>, wherein it has been held that the refusal of leave to defend in a summary suit almost automatically leads to a decree.

16. It is further submitted by Mr. Aggarwal that the scheme of Order XXXVII of CPC itself provides for condonation of delay only in two specific circumstances: (i) when the defendant fails to enter appearance within the statutory period of 10 days on receipt of summons of the suit, and (ii) when the defendant fails to apply for leave to defend within the statutory period of 10 days on receipt of the summons for judgment. According to him, there is no provision permitting the enlargement of time for compliance with conditions precedent imposed while granting leave to defend. It is further averred by him that such an omission is deliberate, as the scheme of summary procedure intends that upon failure to comply with the conditions precedent, the plaintiff becomes entitled to judgment forthwith. Therefore,

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<sup>1</sup> 1989 SCC OnLine All 336

<sup>2</sup> 1961 SCC OnLine MP 36

<sup>3</sup> 2016 SCC Online All 2277

<sup>4</sup> (2007) 2 SCC 275



he submits that the present application filed by the defendant seeking condonation of delay or extension of time is without jurisdiction.

17. Without prejudice to his right as noted hereinabove, Mr. Aggarwal submits that defendant No.1 has not shown sufficient cause for condonation. According to him, the filing of an SLP before the Supreme Court does not automatically extend the time fixed by the Division Bench, as mere filing of an SLP does not extend or suspend the operation of the order, in the absence of an interim order to that effect.

18. Mr. Aggarwal further contends that the defendant failed to approach this Court either before or immediately after the expiry of time. Even otherwise, he avers that under Section 148 of CPC, the Court cannot extend the time beyond 30 days. In view of the above, Mr. Aggarwal, learned counsel for the plaintiffs, prays that the application filed by the defendant for extension of time and condonation of delay be dismissed as not maintainable.

### **Analysis**

19. *In limine*, it may be noted that Order XXXVII Rule 7 of CPC of the CPC, postulates that, save and except as otherwise provided under Order XXXVII of CPC, the procedure applicable to suits instituted thereunder, shall be governed by the same procedural norms as applicable to suits instituted in the ordinary manner under CPC. In other words, the legislative intent underlying Rule 7 is to circumscribe departures from the general procedural framework of the CPC strictly to those aspects expressly delineated within Order XXXVII of CPC itself, and no further.

20. It necessarily follows that barring the specific procedural stipulations contained within Order XXXVII of CPC, the residuary application of the





CPC in its general scheme remains operative and binding. This construction not only preserves the special character of the summary procedure envisaged under Order XXXVII of CPC, but simultaneously ensures that in matters not expressly dealt with therein, the general procedural safeguards and mechanisms enshrined in the CPC are not rendered nugatory.

21. A holistic examination of the provisions of Order XXXVII of CPC would reveal that the Order, while prescribing timelines for entering appearance and seeking leave to defend, is conspicuously silent as regards the treatment of delay in complying with conditions imposed while granting such leave. There exists no express statutory prohibition or limitation within Order XXXVII of CPC that forecloses recourse to other provisions of the CPC for addressing contingencies of non-compliance or delay post-grant of conditional leave.

22. It is undeniable that the legislative framework under Order XXXVII of CPC is predicated upon expedition and strict adherence to timelines, so as to advance the object of speedy disposal of commercial causes. Reference can be made to the decision of this Court in *Vidya Projects Private Limited V. Essel Infra Projects Limited & Ors*<sup>5</sup>.

23. However, it could be seen that the Order does not prescribe any timelines in the aftermath of the grant of leave. The provision does not prescribe any explicit bar against entertaining applications for condonation of delay in complying with a conditional leave order. This statutory position militates against the position propounded by the plaintiffs that the hands of the Court are tied, especially in view of the general provisions saving the inherent powers of the Civil Court as well as explicit provisions empowering



the Court to enlarge the time. Once conditional leave to defend has been granted, any subsequent delay in compliance of the conditions cannot be said to fall outside the remedial ambit of the CPC, unless such exclusion is explicitly mandated by a statute.

24. It is necessary to advert to Section 148 of CPC, the statutory provision that empowers the Court to enlarge the time for compliance, which enables the Court to extend the time prescribed or granted by it for doing any act, in the interest of justice. Furthermore, as noted above, another provision that deserves consideration is Section 151 of CPC, which explicitly saves the inherent powers vested in Civil Courts, which may be invoked to secure the ends of justice and prevent abuse of the process of law.

25. Thus, on a conjoint reading of Sections 148 and 151 of CPC, it could be observed that the judicial discretion to condone delays in compliance with conditional leave orders, notwithstanding the absence of an express provision within Order XXXVII of CPC itself, is manifest. The exercise of such discretion, however, is to be circumscribed by sound judicial principles, balancing the object of expedition under Order XXXVII of CPC with the overarching mandates of justness, fairness and reasonableness of the procedure established by law.

26. In *Salem Advocate Bar Assn. v. Union of India*<sup>6</sup>, the Supreme Court held that the 30-day cap introduced in Section 148 of CPC does not curtail the inherent powers of the Court under Section 151 of CPC to extend time where justice so demands. The Court clarified that the rigid application of Section 148 of CPC would lead to absurd results and that procedural law

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<sup>5</sup> 2025: DHC : 7172

<sup>6</sup> 2005 6 SCC 344



cannot be construed to promote injustice. It emphasized that even peremptory procedural orders are not absolute and Courts retain discretion to extend time in exceptional circumstances, such as events beyond a party's control. Accordingly, Section 148 of CPC must be read harmoniously with Section 151 of CPC to permit extensions beyond 30 days, provided sufficient cause is shown, so as to secure the ends of justice and prevent abuse of process. Paragraphs Nos. 41 to 43 of the decision reads as under:-

*“Section 148*

*41. The amendment made in Section 148 affects the power of the court to enlarge time that may have been fixed or granted by the court for the doing of any act prescribed or allowed by the Code. The amendment provides that the period shall not exceed 30 days in total. Before amendment, there was no such restriction of time. Whether the court has no inherent power to extend the time beyond 30 days is the question. We have no doubt that the upper limit fixed in Section 148 cannot take away the inherent power of the court to pass orders as may be necessary for the ends of justice or to prevent abuse of process of the court. The rigid operation of the section would lead to absurdity. Section 151 has, therefore, to be allowed to operate fully. Extension beyond maximum of 30 days, thus, can be permitted if the act could not be performed within 30 days for reasons beyond the control of the party. We are not dealing with a case where time for doing an act has been prescribed under the provisions of the Limitation Act which cannot be extended either under Section 148 or Section 151. We are dealing with a case where the time is fixed or granted by the court for performance of an act prescribed or allowed by the court.*

*42. In Mahanth Ram Das v. Ganga Das [(1961) 3 SCR 763 : AIR 1961 SC 882] this Court considered a case where an order was passed by the Court that if the court fee was not paid by a particular day, the suit shall stand dismissed. It was a self-operating order leading to dismissal of the suit. The party's application filed under Sections 148 and 151 of the Code for extension of time was dismissed. Allowing the appeal, it was observed: (SCR pp. 767-68)*

*“How undesirable it is to fix time peremptorily for a future happening which leaves the Court powerless to deal with events that might arise in between, it is not necessary to decide in this appeal. These orders turn out often enough to be inexpedient. Such procedural orders, though*



*peremptory (conditional decrees apart) are, in essence, in terrorem, so that dilatory litigants might put themselves in order and avoid delay. They do not, however, completely estop a court from taking note of events and circumstances which happen within the time fixed. For example, it cannot be said that, if the appellant had started with the full money ordered to be paid and came well in time but was set upon and robbed by thieves on the day previous, he could not ask for extension of time, or that the Court was powerless to extend it. Such orders are not like the law of the Medes and the Persians.”*

*43. There can be many cases where non-grant of extension beyond 30 days would amount to failure of justice. The object of the Code is not to promote failure of justice. Section 148, therefore, deserves to be read down to mean that where sufficient cause exists or events are beyond the control of a party, the court would have inherent power to extend time beyond 30 days.”*

27. Relying on the aforesaid decision, this Court in **Manu Markande & Anr. v. State & Ors**<sup>7</sup>, clarified that while Section 148 of CPC places an ostensible cap of 30 days on extension of time, Courts are not precluded from granting extensions beyond this limit, particularly in relation to taking amended pleadings on record. In context of Order VI Rule 18 of CPC, the Court observed that Section 148 of CPC, being a residuary provision, permits enlargement of time where no specific provision exists, but is ordinarily restricted to 30 days. Conversely, Order VI Rule 18 of CPC, which specifically governs the filing of amended pleadings, does not prescribe an absolute upper limit, thereby enabling Courts to extend time beyond the initial 14 days if sufficient cause is demonstrated.

28. The Court observed that a rigid application of Section 148 of CPC would result in procedural absurdities and defeat substantive justice, which is not the purpose of procedural law. The overarching principle reiterated was that Order VI Rule 18 CPC constitutes the governing provision for

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<sup>7</sup> (2025 SCC OnLine Del 1763)



timelines of amendment, and the 30-day restriction under Section 148 of CPC does not curtail the inherent or statutory powers of the Court under Section 151 of CPC to permit filing of amended pleadings even after substantial delay, provided sufficient justification exists. The relevant extract of the aforesaid decision is reproduced as under: -

*“31. Upon analysing the two provisions, in the considered view of this Court, the discretion to extend the time for amending a pleading, beyond the period initially prescribed by the court or the default period of fourteen (14) days in the absence of a prescribed timeline, is inherently vested within the framework of Order 6 Rule 18 CPC. Consequently, the court does not need to rely on Section 148 CPC to limit such extension of time to a total period of thirty (30) days. Nonetheless, the Supreme Court in Salem Advocate Bar Assn. case<sup>8</sup> has clarified that the upper limit prescribed under Section 148 does not curtail the inherent power of the court to issue necessary orders to ensure that the ends of justice are met or to prevent the abuse of judicial process.*

*32. While interpreting the provisions of Section 148 CPC, in Salem Advocate Bar Assn. case<sup>8</sup>, the Supreme Court observed that a rigid application of the section could lead to absurd outcomes. To avoid such results, the court emphasised the need to allow the full operation of Section 151 CPC. This provision, in the view of the Supreme Court, enables the exercise of inherent powers to ensure justice. Consequently, the Supreme Court held that an extension beyond the maximum limit of 30 days, prescribed under Section 148, could be granted if the act in question could not be performed within the stipulated time for reasons beyond the control of a party. The relevant portion of para 41 of the decision reads as follows: (SCC p. 372, para 41)*

*“41. The amendment made in Section 148 affects the power of the court to enlarge time that may have been fixed or granted by the court for the doing of any act prescribed or allowed by the Code. The amendment provides that the period shall not exceed 30 days in total. Before amendment, there was no such restriction of time. Whether the court has no inherent power to extend the time beyond 30 days is the question. We have no doubt that the upper limit fixed in Section 148 cannot take away the inherent power of the court to pass orders as may be necessary for the ends of justice or to prevent abuse of process of the court. The rigid operation of the section would lead to absurdity.*



*Section 151 has, therefore, to be allowed to operate fully. Extension beyond maximum of 30 days, thus, can be permitted if the act could not be performed within 30 days for reasons beyond the control of the party. We are not dealing with a case where time for doing an act has been prescribed under the provisions of the Limitation Act which cannot be extended either under Section 148 or Section 151. We are dealing with a case where the time is fixed or granted by the court for performance of an act prescribed or allowed by the court.”*

*33. In Municipal Corpn., Nashik case<sup>6</sup>, the Supreme Court considered a scenario, where, the High Court had declined to extend the time for depositing costs imposed by it. The Supreme Court, relying on its earlier decision in Salem Advocate Bar Assn. case<sup>8</sup>, upheld the principle that rigid adherence to procedural timelines should not thwart the ends of justice. Observing that an extension of time was warranted in the interest of fairness, the court found favour with the petitioner to set aside the order of the High Court, and permitted the applicant to deposit the costs beyond the originally prescribed timeframe.*

*34. In South Asia Human Rights Documentation Trust case<sup>5</sup>, a coordinate Bench of this Court condoned a delay of approximately 97 days in filing an amended plaint. The court, while considering the issue, referred to the precedent set in Glaxo Smithkline Consumer Healthcare case<sup>10</sup>. Against the decision of the coordinate Bench of this Court in South Asia Human Rights Documentation Trust case<sup>5</sup>, an appeal was filed, which was subsequently dismissed vide order dated 9-1-2012, in Suhas Chakma case<sup>5</sup>.”*

29. It is, thus, seen that though the powers under Section 148 of the CPC limit the discretion up to 30 days, however, the inherent power of the Court under Section 151 of the CPC can be invoked in the interest of justice. Of course, sufficient cause remains a *sine qua non* for the invocation of inherent powers.

30. It is pertinent to note herein that Section 151 of CPC states that nothing in the Code shall limit or otherwise affect the inherent powers of the Court to make such orders as may be necessary for securing the ends of justice or to prevent abuse of the process of the Court. Thus, the aforementioned



provision is essentially a saving clause and does not confer any new authority upon Courts; rather, it recognizes that Courts, as forums for administering justice, inherently possess the powers to act whenever required to ensure that justice is not defeated by procedural rigidity or misuse of legal process. The inherent powers are not derived from statute but originate from the sacred duty of the Court to dispense justice. The exercise of such powers is guided by the principle that the injury suffered by a party must be remedied and unnecessary expense, inconvenience, or multiplicity of suits be avoided.

31. To prevent abuse of process, Courts may invoke Section 151 of CPC to check vexatious, obstructive, or dilatory litigation, fraudulent practices, or attempts to misuse judicial proceedings for securing unfair advantage. The maxim *actus curiae neminem gravabit*, i.e., an act of the Court shall prejudice no one, serves as the foundation of the legislative intent behind the incorporation of the instant provision. The inherent powers, therefore, ensure that neither the parties nor the Court itself becomes an instrument of injustice.

32. Despite its wide amplitude, the exercise of inherent powers is not unbridled. It cannot be employed to override the express provisions of the CPC, cannot confer jurisdiction where none exists, and cannot be used to reopen final judgments except in cases of fraud or abuse.

33. Moreover, it is also to bear in mind that rules of procedure are handmaids of justice, not its mistress. The Supreme Court in ***Rajendra Prasad Gupta v. Prakash Chandra Mishra***<sup>8</sup> held that Section 151 of CPC has to be interpreted to mean that every procedure is permitted to the Court



for doing justice, unless expressly prohibited, and not that every procedure is prohibited unless expressly permitted. This principle has stood the test of time in matters of procedure and has been developed as a thumb rule. The principle is well established that when CPC is silent regarding a procedural aspect, the inherent power of the Court can come to its aid to act *ex debito justitiae* for doing real and substantial justice between the parties.

34. On the anvil of the aforesaid position, if the facts of the instant case are examined, they would indicate that the Court, *vide* order dated 11.04.2019, granted conditional leave to defend to defendant No.1, thereby acknowledging the existence of sufficient triable issues, subject to the deposit of Rs. 4 crore. The relevant extract reads as under:-

*“12. The Plaintiff No. 1 is the widow of late Shri. Hari Om Rana and Plaintiff No. 2 is his daughter. Defendant No. 1 is in control of the entire estate and the estate may be whittled away by the time the suit is tried and adjudicated. Thus, some conditions have to be imposed. The IAs filed by the bank and Defendants No. 1, Mr. Rampal seeking leave to defend are accordingly allowed in the following terms:-*

*1. Leave to defend is granted conditionally to Defendant No. 1 subject to Defendant No. 1 furnishing security for a sum of Rs.4 crores to the satisfaction of the Registrar General of this Court within four weeks. In so far as the Defendant No. 2 bank is concerned, it is entitled to unconditional leave.*

*"2. Defendant No. 2 bank is directed not to permit withdrawal of any amounts from any of the accounts of late Shri. Hari Om Rana without informing the Plaintiffs.*

*13. The IAs are disposed of in the above terms.*

*CS (OS) 1159/2014*

*14. List the suit on 23th July, 2019. “*

35. Subsequently, the aforesaid decision was assailed before the Division Bench and *vide* order dated 11.10.2023, the Division Bench passed the following Order: -

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<sup>8</sup> (2011) 2 SCC 705





*“15.2 Thus, the Appellant as a nominee to the bank account of the Deceased, could receive the money from the account after the death of the Deceased, but could not claim a right to such money, the monies in the account, which would devolve upon his Class I legal heirs in the accordance to the Hindu Succession Act, 1956.*

*15.3 In these circumstances, the defence raised although is plausible, the genuineness thereof is to be proved at trial. Thus, leave to defend/contest is to be granted to the Appellant, but this amount is to be secured in terms of the IDBI Trusteeship case.*

#### **CONCLUSIONS**

*16. The Impugned Order is modified and Leave to defend is granted conditionally to the Appellant, subject to his furnishing security in the sum of Rs.1.20 crores to the satisfaction of the Registrar General of this Court within six weeks from the date of this judgment.*

*17. The foregoing directions are being passed without prejudice to the rights and contentions of the parties to take all the objections including which have been set forth in the present Appeal, during the trial before the learned Single Judge.*

*18. Accordingly, the Appeal and the Cross objections are disposed off in the above mentioned terms. All pending Application(s) stand closed.*

*19. There shall be no order as to costs.”*

36. Subsequently, the SLP was also dismissed *vide* Order dated 27.02.2025. The Order dated 27.02.2024 is reproduced as under :-

*“Heard the learned Senior Counsel appearing for the petitioner. We are not inclined to interfere with the impugned judgment passed by the High Court. Hence, the Special Leave Petition is dismissed. Pending applications, if any, shall stand disposed of.”*

37. The plaintiffs also assailed the order of the Division Bench in SLP, which was also dismissed *vide* order dated 17.02.2024.

38. Insofar as compliance with the direction for deposit of security is concerned, defendant No. 1 filed an I.A. No. 5760/2024 seeking condonation of the delay of 104 days in furnishing security, attributing the delay to the pendency of the SLP.

39. Pursuant thereto, *vide* Order dated 12.03.2024, this Court allowed the application and granted two weeks' time for furnishing security. The said



order was subsequently recalled. The relevant extract of the aforementioned order reads as under:-

**“I.A. 5760/2024 (for delay) in CS(OS)-1159/2014**

*3. This is an application seeking condonation of delay in furnishing the security in terms of the ld. Division Bench's order dated 11 th October, 2023 for a sum of Rs. 1.20 crores to the satisfaction of the worthy Registrar General. The operative portion of the said order read as under:*

*“6. Ld. counsel for the Applicant submits that the delay was due to the filing of the SLP which was finally dismissed on 27th February, 2024. Thus, time is sought.”*

*5. Accordingly, it is directed that the security shall be furnished within a period of two weeks from today.*

*6. Delay is condoned. Application is disposed of.*

*7. For the said purpose, list the suit before the worthy Registrar General on 2nd April, 2024.*

*8. List before the Court on the date fixed i.e. 21st May, 2024.*

*9. A copy of this order be served upon the Id. Counsel for the nonapplicant.”*

40. On 28.03.2024, the security was eventually furnished, though with a delay of two days beyond the extended period.

41. The plaintiffs, thereafter, filed an I.A. No. 7798/2024 on 04.04.2024, seeking recall of the order dated 12.03.2024 on the ground of absence of service and denial of opportunity of hearing.

42. By order dated 08.04.2024, this Court recalled its earlier order dated 12.03.2024 and directed that the security furnished by defendant No. 1 would remain subject to verification and further orders of the Court, as also the outcome of the pending SLPs. The order dated 08.04.2024 reads as under:-

*“10. The security is stated to have been furnished by the Defendants, however, the copy of the same is not served to the Plaintiffs.*

*11. Issue notice to the Plaintiff in IA 5760/2024. Mr. Aggarwal, ld. Counsel now submits that he has challenged the Division Bench order dated 11th October, 2023 as also the 2019 order of this Court before*



*the Supreme Court.*

*12. Let the copy of security which has been stated to be furnished by the Defendants be given to Id. Counsel for the Plaintiff who may also file a reply to this application. The security which has now been furnished shall be subject to further orders of this Court in this application as also in SLP Civil NO. 1213/2024 which is stated to be pending before the Supreme Court.”*

43. Subsequently, by order dated 21.05.2024, the Court clarified that the process of verification of the security papers furnished by defendant No. 1 shall continue before the Registrar. On 20.09.2024, it was recorded that the verification remained pending since, although notice had been served upon the Sub-Registrar and SDM, the valuation report of the subject land was awaited. Thereafter, on 07.02.2025, it was brought to the Court's notice that, with respect to compliance of the order dated 12.03.2024, there was an additional delay of two days, for which defendant No. 1 had filed I.A. No. 3830/2025 seeking condonation.

44. An upshot of the aforesaid delineation of facts and events would indicate that a delay in furnishing the requisite security has occurred in the backdrop of the instant *lis* being pursued by both sides up to the Supreme Court. The order dated 11.04.2019, directing the deposition of security of Rs. 4 crores, was modified by the Division Bench on 11.10.2023 and the amount was reduced to Rs. 1.20 crores. The said order was assailed before the Supreme Court, both by defendant No.1 and the Plaintiffs, and the SLPs came to be dismissed on 27.02.2024 and 17.02.2024, respectively.

45. During the pendency of the said proceedings, the defendant No. 1 refrained from furnishing the security, *bona fide*, awaiting the outcome of the superior forum. Immediately upon dismissal of the SLP, the defendant no.1 sought condonation of delay and, by order dated 12.03.2024, further



time was granted for compliance. Defendant no.1, thereafter, furnished the security on 28.03.2024, *albeit* with a minor delay of two days beyond the extended period of two weeks.

46. On 08.04.2024, the Court recalled the order dated 12.03.2024 and noted that security had already been furnished but not shared with the plaintiffs. It was further noted that the deposition of the security was subject to further orders to be passed by the Court.

47. Thus, the conspectus of facts demonstrates that the delay of 104 days, followed by the delay of two further days in furnishing the requisite security, was not due to any disregard for the orders of this Court, but was a result of *bona fide* pursuit of remedies before the Supreme Court. Both the plaintiffs and defendant No.1 had assailed the order of the Division Bench, and the pendency of such challenges sufficiently explains defendant No.1's approach to await the final adjudication, prior to complying with the directions. Furthermore, the conduct of defendant No.1 in subsequently moving for condonation of delay and depositing the security, post the dismissal of the SLP, suggests good faith and a genuine intent to abide by the directions, rather than any obduracy or negligence.

48. Equally significant is the fact that the security, which formed the very condition precedent for the defendant's right to defend, has already been deposited. To shut the doors of justice on defendant no.1 for the sole reason of procedural delay, despite substantive compliance and demonstration of sufficient cause, would amount to subordinating equity to formality. The plaintiffs' interests stand duly secured, and no prejudice can be said to accrue by reason of the delay having been condoned, whereas non-suiting the defendant at this juncture would defeat the ends of justice by depriving



him of the opportunity to contest the instant suit, despite finding triable issues. The balance of convenience, therefore, tilts overwhelmingly in favour of granting indulgence to the defendant.

49. Moreover, the contention that only the Division Bench could condone such a delay is misconceived. The instant application does not seek rectification or modification of the order of the Division Bench but instead invokes the statutory remedy of condonation under Section 148 of CPC read with the inherent powers contemplated under Section 151 of CPC. The relief sought is confined to ensuring proper adjudication of the suit by permitting the defendant to defend, in conformity with the earlier directions.

50. In these circumstances, the Court is of the view that the delay deserves to be condoned in exercise of inherent powers under Section 151 of the CPC. The delay being *bona fide* and occasioned due to pendency of proceedings before the Supreme Court, no prejudice would be caused to the Plaintiffs if such delay is excused. Whereas, if the delay is not condoned, it would result in denying defendant No.1 of the opportunity to defend the instant suit, despite such an opportunity having already been extended by the Division Bench in principle. Such a denial would not only frustrate the principles of natural justice but would also be in the teeth of the orders passed by the Court earlier.

51. Accordingly, the delay is condoned, and the security so furnished by the defendant is taken on record.

52. The instant applications stand disposed of.

**CS(OS) 1159/2014 and I.A. 1580/2020, I.A. 5838/2024 & I.A. 5215/2024**

53. Let the matter to continue before the concerned Joint Registrar, on 15.10.2025, for taking up further necessary steps in accordance with law.



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54. Thereafter, let the matter be listed before the Court on the date to be assigned by the Joint Registrar.

**(PURUSHAINDRA KUMAR KAURAV)**  
**JUDGE**

**SEPTEMBER 08, 2025**  
**aks**