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

+ **CS(OS) 178/2024**

Date of Decision: 14.08.2025

IN THE MATTER OF:

1. DR. VIKRAM HINGORANI
SON OF LATE SHRI BAHAR HINGORANI
RESIDENT OF C 57 SECTOR 14,
GAUTAM BUDDHA NAGAR, NOIDA
UTTAR PRADESH 201301

2. ANITA BHAVNANI
WIFE OF AIR MARSHALL AJIT BHAVNANI (RETD.)
RESIDENT OF A5-902
THE WORLD SPA, SECTOR 30 AND 41,
GURGAON, HARYANA 122001

3. LATA SABHARWAL
WIFE OF COL. MANIK SABHARWAL (RETD.)
RESIDENT OF A 1/19, VASANT VIHAR
NEW DELHI 110057

4. DR. AMAN M. HINGORANI
SON OF LATE SHRI N H HINGORANI
RESIDENT OF A 19 NEETI BAGH
NEW DELHI 110049

5. DR. SHWETA HINGORANI
DAUGHTER OF LATE SHRI N H HINGORANI
RESIDENT OF A 19 NEETI BAGH
NEW DELHI 110049

6. PRIYA HINGORANI
DAUGHTER OF LATE SHRI N H HINGORANI
RESIDENT OF A 19 NEETI BAGH



NEW DELHI 110049

7. PATRICIA HINGORANI
WIDOW OF LATE SHRI MOHAN HINGORANI
RESIDENT OF 2 NEW HOUSE FARM, SHAW LANE
HOLMFIRTH, WEST YORKSHIRE HD9 2PY
UNITED KINGDOM
THROUGH
THE SPA HOLDER OF HER GPA HOLDER,
DEEPAK DEY, A 9-19 VASANT VIHAR
2ND FLOOR, NEW DELHI 110057

.....PLAINTIFFS

(Through: Dr. Aman Hingorani, Sr. Advocate with Ms. Vidhisha Jain and Ms. Sonali Sharma, Advocates.)

Versus

1. UNION OF INDIA
THROUGH ITS SECRETARY
MINISTRY OF URBAN DEVELOPMENT
MAULANA AZAD ROAD, NIRMAN BHAWAN
NEW DELHI - 110 011

2. LAND & DEVELOPMENT OFFICER
LAND & DEVELOPMENT OFFICE
MINISTRY OF URBAN DEVELOPMENT
GATE #4, 'A' WING, 6TH FLOOR,
MAULANA AZAD ROAD, NIRMAN BHAWAN
NEW DELHI - 110 011

3. DEPUTY LAND & DEVELOPMENT OFFICER
LAND & DEVELOPMENT OFFICE
MINISTRY OF URBAN DEVELOPMENT
GATE #4, 'A' WING, 6TH FLOOR,
MAULANA AZAD ROAD, NIRMAN BHAWAN
NEW DELHI - 110 011

.....DEFENDANTS

(Through: Mr. Ripu Daman Bhardwaj, CGSC with Mr. Kushagra Kumar and Mr. Amit Kumar Rana, Advocates for UOI.)



CORAM:
HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

J U D G E M E N T

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

I.A. 39923/2024 (Delay in filing the chamber appeal)

1. For the reasons stated in the application, the delay of 44 days in filing the chamber appeal is condoned.

2. The application stands disposed of.

O.A. 161/2024 [under Chapter II Rule 5 of the DHC (Original Side) Rules, 2018]

3. Heard.

4. Mr. Ripu Daman Bhardwaj, learned counsel appearing for the defendants, submits that the order dated 24.07.2024 passed by the Joint Registrar deserves to be interfered with, keeping in mind the principles of law laid down by the Supreme Court in the case of *Bharat Kalra v. Raj Kishan Chabra*,¹ and another decision of the Supreme Court in the case of *Kailash v. Nanhku and Ors*,² which was relied upon by the Supreme Court in *Bharat Kalra*. He submits that delay beyond 120 days in non-commercial civil suits can be condoned, subject to adequate compensation to the plaintiff. He submits that in the instant case, the defendant is the Union of India and that only on account of certain procedural reasons, the written statement could not be filed within 120 days from the date of service of summons. The delay, however, was *bonafide* and not intentional, and

¹ 2022 SCC OnLine SC 613



therefore, the Court may consider allowing the defendant to place on record the written statement. According to him, non-taking on record of the written statement is a very harsh preposition which may prejudice substantial rights of the defendants.

5. The aforesaid circumstances, however, are strongly opposed by Dr. Aman Hingorani, learned Senior Counsel, appearing for the plaintiffs. He submits that the controversy with respect to the aforesaid aspect has been settled by this Court in *Col Ashish Khanna SM Retd. v. Delhi Gymkhana Club & Ors.*³ He further submits that keeping in mind the exposition of the applicable legal position and in the context of Rule 4 of the Delhi High Court (Original Side) Rules, 2018 [*DHC (OS) Rules*] the Court has held that, no power is envisaged under law, for the Court to condone any delay beyond 120 days, for filing the written statement. He emphasized that the validity of Rule 4 of the DHC (OS) Rules has been upheld by this Court in *Manhar Sabharwal v. High Court of Delhi & Ors.*⁴ Additionally, he submits that the decision of the Single Judge in the case of *Col Ashish Khanna* has also been upheld by the Division Bench in the case of *Delhi Gymkhana Club Ltd. v. Col Ashish Khanna SM Retd and Ors.*⁵

6. In the case of *Col Ashish Khanna*, having considered the aforesaid legal position, the Court, in paragraph nos. 20 and 21 of the judgment has rendered the following findings:

“20. In Charu (Supra), the Division Bench has very emphatically held the inviolability of the hard stop period of 120 days prescribed in Rule 4 for filing the written statement. Court re-stated the principles laid

² (2005) 4 SCC 480

³ 2023 SCC OnLine Delhi 5173

⁴ 2024 SCC OnLine Del 5945

⁵ 2024:DHC:7524-DB



down in *Gautam Gambhir (Supra)* and *Harjyot Singh (Supra)*, and declared that they act as binding precedents on the issue.

21. As of now, *Charu (Supra)* has laid to rest the debate on the ability of courts to condone delay in filing of written statement beyond 120 days in a noncommercial suit. Rule 4 circumscribes the power of court to condone the delay beyond the maximum permissible time of 120 days.”

7. In the said decision, it is seen that the decisions in the case of *Gautam Gambhir v. Jai Ambey Traders*,⁶ *Harjyot Singh v. Manpreet Singh*⁷ and *Charu Agrawal v. Alok Kalia*⁸ have been considered and the Court has unequivocally held that the inviolability of the hard stop period of 120 days prescribed in Rule 4 for filing the written statement has been confirmed therein. The Court also noted that the decisions in the cases of *Gautam Gambhir* and *Harjyot Singh* do not allow such an exposition, and therefore, the Court is not empowered to extend time beyond 120 days in a non-commercial suit.

8. Under the aforesaid circumstances, the Court finds that the decision rendered by the Supreme Court in the case of *Bharat Kalra* was in the context, solely, of the provisions of Order VIII Rule 1 of the CPC, whereas the DHC (OS) Rules prescribes that the delay beyond 120 days in no circumstances is condonable. As has been held by this Court in *Manhar Sabharwal*, the provisions of the DHC (OS) Rules override the provisions of the Code of Civil Procedure. The relevant portion of the said judgment is extracted below, for reference:

“8. Considering the aforesaid discussion, it is evident that Section 129 CPC, which is couched in a non-obstante clause, will have an overriding effect over other provisions of the CPC, in case of any conflict. Thus, the DHC Original Side Rules, which have been enacted

⁶ 2020 SCC OnLine Del 2621

⁷ 2021 SCC OnLine Del 2629

⁸ 2023 SCC OnLine Del 1238



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in terms of the authority conferred by Section 129 CPC, will essentially and necessarily have an overriding effect over other provisions of the CPC. In case of any conflict, the DHC Original Side Rules shall prevail.”

9. Under these circumstances, the order dated 24.07.2024 passed by the Joint Registrar does not require any interference. Accordingly, the O.A. stands dismissed.

CS(OS) 178/2024, I.A. 35895/2024, I.A. 41131/2024 & I.A. 41132/2024

10. Let the matter be listed on 16.10.2025 for consideration of remaining applications.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 14, 2025

tr/sp