



2025:DHC:1843



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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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TEST CASE NO.51 OF 2010

1. SH. MANU MARKANDE
S/O LATE SMT. SURAKSHA MARKANDE AND
LATE SH. M. K. MARKANDE
(HUSBAND OF PRE-DECEASED DAUGHTER OF LATE SH.
PYARE LAL SHARMA)
R/O 222 KAILASHHILLS
EAST OF KAILASH, NEW DELHI.

2. MANISHRI MARKANDE
S/O LATE SMT. SURAKSHA MARKANDE AND
LATE SH. M. K. MARKANDE
(HUSBAND OF PRE-DECEASED DAUGHTER OF LATE SH.
PYARE LAL SHARMA)
R/O 222 KAILASHHILLS
EAST OF KAILASH, NEW DELHI

ALSO, AT
47, MAXWELL PARK ROAD
HOUNSLOW-TW 32 DP
MIDDLESEX
LONDON
(THROUGH HER ATTORNEY MR. MANU MARKANDE)

....PETITIONERS

(Through: Mr. Rajiv Aneja, Advocate.)

Versus

1. THE STATE



2. **SMT. SUDESH KHANNA**
D/O LATE. SH. PYARE LAL SHARMA
WO SH. VIJAY KUMAR KHANNA
R/O B-7/97, SAFDARJUNG ENCLAVE (EXTN)
NEW DELHI.
3. **SHRI VIAJAYKUMARSHARMA**
S/O LATE SH. PYARE LAL SHARMA
R/O SEA FEATHERS BAY
P.O. BOX 399, G.P.O
THE VALLEY, ANGUILLA (B.W.I)
(VVEST INDIES)
4. **SH. AJAY SHARMA**
S/O L-ATE SH. PYARE LAL SHARMA
R/O 7380 BURRISST,
BURNABY, B.C. V5E1Y5
(CANADA)
5. **SMT. VINAY SHARMA**
D/O LATE SH. PYARE LAL SHARMA
WO SH.NARCSHKUMAR
R/O C-113 NARAINA VIHAR
NEW DELHI
6. **MANAGER,**
BANKOFBARODA
NARAINA INDUSTRIAL AREA BRANCH
NARAINA
NEW DELHI
7. **MANAGER**
ICICI BANK LTD.
43, NARAINA COMMUNITY CENTER
NARAINA INDUSTRIAL AREA
NARAINA
NEW DELHI-110028
8. **MANAGER**
HDFC BANK



2025:DHC:1843



B -54, GREATER KAILASH-I
NEW DELHI

**9. MANAGER
STATE BANK OF INDIA
NARAINA VIHAR BRANCH
NARAINA
NEW DELHI**

....RESPONDENTS

(Through: Mr. Nitesh Kumar Singh and Mr.Devender Singh, Advs for R-2 to 5.)

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Reserved on: 04.03.2025

Pronounced on: 19.03.2025

JUDGMENT

I.A. 7906/2016 (By respondent 3&4 for enlargement of time for filing the amended Written Statement)

1. The instant application has been filed by the respondents no. 3 and 4, seeking enlargement/extension of time for filing the amended written statement.

2. Mr. Nitesh Kumar Singh, learned counsel for the respondents no. 3 and 4, submits that *vide* order dated 14.01.2016, the Court, while partly allowing an application under Order VI Rule 17 of the Code of Civil Procedure,1908, [CPC], had granted six weeks time to file the amended written statement. However, on account of unavoidable reasons, the written statement was filed with delay, only on 11.07.2016. He explains that in



2025:DHC:1843



February 2016, respondent No.4 had to travel to Canada due to the illness of his grandson and he then returned back to India on 03.03.2016. Thereafter, due to medical reasons, he was unable to meet with his then counsel, and was advised bed rest until 15.03.2016. Learned counsel further explains that during this period, the earlier representing counsel of the said respondent had to travel to Gurdaspur, Punjab, and was unavailable in Delhi from 09.02.2016 to 22.02.2016.

3. Since the order dated 14.01.2016 rejected the part of his proposed amendments to the written statement, being aggrieved by the same, he took steps to file the appeal. Subsequently, respondent No.4, acting in his individual capacity, applied for a certified copy of the order on 16.03.2016. After obtaining the certified copy, he filed an appeal. The appeal was presented on 06.04.2016 and was accompanied by an application under Section 5 of the Limitation Act, 1963, seeking condonation of delay. On 08.04.2016, notice on the application for condonation of delay was issued. After hearing the parties, the appeal was eventually dismissed on 01.11.2018.

4. Learned counsel points out that an appeal was also filed by the petitioners herein against the same order dated 14.01.2016, which was also dismissed on 01.11.2018.

5. A review petition against the dismissal of the appeal was subsequently filed by the respondent no. 3 and 4 herein, before the Division Bench, which also met with the same fate on 27.09.2019. The matter was then carried to the Supreme Court in SLP(C) No. 3345/2020, where the SLP was dismissed on 03.02.2020.



2025:DHC:1843



6. Learned counsel submits that the Division Bench of this Court, on 01.11.2018, while dismissing the appeal, also imposed the cost, which was understood by the respondents herein to have been waived by the Supreme Court. However, when no specific reference to that effect was found in the order, the respondent was compelled to file a review application before the Supreme Court. On 19.05.2020, the Court allowed the review petition and waived the cost imposed by the Division Bench of this Court.

7. Learned counsel further explains that, notwithstanding the fact that respondent No.4 had undertaken various steps to seek lawful remedies against the order dated 14.01.2016, an application for enlargement of time was also filed under section 148 of CPC, as abundant caution, on 02.06.2016. He adds that on 11.07.2016, the amended written statement was also placed on record. Learned counsel further highlights that the petitioners filed their reply to the application for enlargement of time only after a delay of approximately six years, only on 31.08.2022.

8. In summary, the case of the respondent no.3 and 4 reveals that *vide* order dated 14.01.2016 in FAO 114/2016, the Court allowed the application under Order VI Rule 17 of CPC and directed the respondents herein to file the amended written statement within six weeks, and the respondents herein failed to comply with the said direction. Thus, he subsequently filed an application for condonation of delay on 02.06.2016. The amended written statement was eventually filed on 11.07.2016, resulting in an acknowledged delay of more than 30 days beyond the six-week period stipulated in the order dated 14.01.2016, and he prays for the same to be taken on record. On the legal aspect, he places reliance on a decision of this court in ***Rachna***



*Mediratta And Ors vs Girdhari Lal*¹ and the order dated 09.01.2012 passed in FAO (OS) 12/2012 titled as *Suhas Chakma v. South Asia Human Rights Doc*, whereby the appeal filed against *South Asia Human Rights Doc. Trust v. Suhas Chakma and Others*² was rejected and the decision in *South Asia Human Rights Doc. Trust* was affirmed.

9. Subsequently, he contends that the Court has the power to take on record the amended written submissions, and to substantiate the same, he places further reliance on the decision in the case of *Nashik Municipal Corpn. v. R.M. Bhandari*³. In addition, learned counsel also placed reliance on another order passed by the Supreme Court in the case of *Bharat Kalra v. Raj Kishan Chabra*⁴, to contend that the delay in placing on record the amended pleadings can be condoned even beyond 30 days under Section 151 of the CPC, if the facts so warranted.

10. According to him, if the enunciation of law laid down by the Supreme Court is considered in the right perspective, the same would clearly indicate that power under Section 151 of the CPC would fully operate to deal with such an eventuality, and the Supreme Court in the case of *Salem Advocate Bar Assn. v. Union of India*⁵, has considered the import of the provisions of Section 148 of the CPC and has held that the rigid operation of the Section would lead to absurdity. He, therefore, contends that in view of the provisions of Section 151 of the CPC, as has been interpreted by the

¹ 2023 SCC OnLine Del 3915

² 2017 SCC OnLine Del 12459

³ (2016) 6 SCC 245

⁴ 2022 SCC OnLine SC 613

⁵ (2005) 6 SCC 344



2025:DHC:1843



Supreme Court in the case of *Salem Advocate Bar Assn.*, extension beyond the maximum period of 30 days is permitted, if the act could not be performed within 30 days for reasons beyond the control of the parties.

11. Vehemently contradicting the submissions advanced on behalf of the respondents, Mr. Rajiv Aneja, learned counsel for the petitioners herein, has raised an objection regarding the maintainability of the application. He contends that the extension of time to take the amended written statement on record cannot exceed a total of 30 days. In support of this contention, reliance is placed on the provisions of Section 148 read with Order VI Rule 18 of CPC.

12. Learned counsel highlights certain discrepancies in the dates and averments made by the respondents herein, in various documents. He points out that in the application, it is stated that respondent No.4 traveled to Canada on 22.02.2016, and returned to India on 03.03.2016. However, in the rejoinder submissions on the application, respondent No.4 claims to have traveled to Canada on 09.12.2016 and returned on 03.03.2016, which is inherently contradictory. Mr. Aneja emphasizes that the date of 09.12.2016 is corroborated by the stamp affixed on the passport of the said respondent, whereas, the claim of traveling on 22.02.2016, as stated in the original application, finds no support from the passport records.

13. With respect to the averments in the application asserting that the grandson of respondent No.4 was admitted to a medical facility in Canada, which necessitated the immediate trip to Canada, Mr. Aneja submits that no documents have been placed on record to substantiate this claim of a medical emergency. Upon being questioned, respondent No.4, in rejoinder,



stated that under Canadian law, medical documents can only be provided to the patient, and the documents are protected under Canadian privacy law. Mr. Aneja argues that despite this explanation, documents concerning the illness of the own grandson of the said respondent could have been procured and submitted to corroborate the claim made in the application.

14. Mr. Aneja submits that the position of law laid down in the case of *Salem Advocate Bar Assn* has further been explained by the Supreme Court in the case of *R.N. Jodi & Brothers v. Subhashchandra*⁶.

15. With respect to the decision in the case of *Rachna Mediratta*, Mr. Aneja submits that since the said decision does not consider *Glaxo Smithkline Consumer Healthcare v. Anchor Health & Beautycare*⁷, it is *per incuriam*. To substantiate his submission, he places reliance on the decision in the case of *Jawahar Lal Sazawal v. State of J&K*⁸.

16. In order to substantiate his submissions, he placed reliance on a decision of the Supreme Court in the case of *Union of India v. Pramod Gupta*⁹, the decision of Division Bench of this Court in the case of *Union of India (UOI) and Ors. vs. Rajiv Gupta and Ors* in RFA No. 84 of 1987 dated 28.08.2006, the decision of this Court in *Glaxo Smithkline Consumer Healthcare*, and the decision of High Court of Rajasthan in the case of *Darshan Singh v. Kewal Krishan*¹⁰.

17. Learned counsel then contends that in view of the interpretation of the

⁶ (2007) 6 SCC 420

⁷ 2009 SCC OnLine Del 1899

⁸ (2002) 3 SCC 219

⁹ (2005) 12 SCC 1

¹⁰ 2002 SCC OnLine Raj 107



provisions of Order VI Rule 18 read with Section 148 of the CPC, the Coordinate Bench of this Court in *Glaxo Smithkline Consumer Healthcare* has unequivocally held that the legislative intent in curtailing the discretion of the Court to condone the delay is evident from the amendment made in 2002 to Section 148 of the CPC, and the discretion to condone the delay cannot exceed beyond 30 days after the last date prescribed in the order allowing to place on record the amended pleadings.

18. In rejoinder submissions, learned counsel appearing for the respondents submits that this Court in the case of *South Asia Human Rights Doc. Trust* inadvertently placed reliance on *T.N. Rajasekar v. N. Kasiviswanathan*¹¹, to hold that the rigid operation of the section would lead to absurdity and accordingly, the Court has formed the view that power of the Court to extend the time for filing amended plaint is vested under Order VI Rule 18 from the prescribed period.

19. While placing reliance on a decision in the case of *T. N. Rajshekhar*, he submits that the same does not relate at all to the provisions of Order VI Rule 18 or to the provisions of Section 148 of the CPC. He, therefore, submits that notwithstanding the aforesaid aspect, even the decision in the case of *South Asia Human Rights Doc. Trust* does not consider the correct position of law laid down in the case of *Glaxo Smithkline Consumer Healthcare*, and without discussing or taking into consideration the position of law, the Court has distinguished the said decision.

20. Heard learned counsels for the parties on the instant application. The

¹¹ (2005) 11 SCC 218



counsels appearing on behalf of the parties have made comprehensive submissions with respect to I.A. 7906/2016.

Scope of Enlargement of Time under Section 148 CPC with the Mandate of Order VI Rule 18 CPC.

21. The primary issue to be addressed is whether the provisions of Order VI Rule 18, read with Section 148 of CPC, empower the Court to enlarge the time beyond the 30-days limitation stipulated under Section 148 of the CPC.

22. Order VI Rule 18 of the CPC provides that if a party, having obtained leave to amend, fails to carry out the amendment within the time prescribed in the order, or if no specific time is prescribed, within fourteen (14) days from the date of the order, such party shall not be permitted to amend after the expiration of the stipulated period. However, in the last sentence, the rule allows for an exception, enabling the Court to extend the time for amendment upon an application made for this purpose. Order VI Rule 18 of the CPC reads as under:-

“18. Failure to amend after order.- If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order, or if no time is thereby limited then within fourteen days from the date of the order, he shall not be permitted to amend after the expiration of such limited time as aforesaid or of such fourteen days, as the case may be, unless the time is extended by the Court.”

23. Section 148 of the CPC, however, empowers the Court to extend the time prescribed or allowed by it for doing any act, provided such extension does not exceed a period of 30 days in total. Section 148 of the CPC reads as under:-

“148. Enlargement of time.—Where any period is fixed or granted by



2025:DHC:1843



the Court for the doing of any act prescribed or allowed by this Code, the Court may, in its discretion, from time to time, enlarge such period, 4[not exceeding thirty days in total,] even though the period originally fixed or granted may have expired.”

24. The interplay between these two provisions determines whether the power of the Court to extend time under Order VI Rule 18 pursuant to an order of amendment is constrained by the 30-days’ limit under Section 148 of CPC.

25. A plain reading of Order VI Rule 18 CPC reveals that, as a matter of general rule, a party being granted with the leave to amend must act within the timeframe specified in the said order, or if no time is so specified, within 14 days. The provision indicates that the discretion to allow amendments is vested with the Court, enabling it to determine an appropriate timeline based on the facts and circumstances of each case. Where no specific time is prescribed in the order, the rule defaults to a period of fourteen days from the date of the order.

26. Notably, the concluding phrase of Rule 18, “*unless the time is extended by the Court*” confers upon the Court the discretion to extend the time for amendment even after the prescribed period has lapsed. This discretionary power applies irrespective of whether the timeline was specifically mentioned in the order or if the statutory default period of fourteen days has elapsed.

27. The interpretation of Order VI Rule 18 CPC must primarily be tested on the anvil of the principles of the literal rule of interpretation. As



established in *Kanai Lal v. Paramnidh*¹², that “*it must always be borne in mind that the first and primary rule of construction is that the intention of the legislature must be found in the words used by the legislature*”, a plain reading of Order VI Rule 18 CPC indicates that a party granted leave to amend is required to act within the timeframe specified by the Court. If no specific time is mentioned, the provision defaults to fourteen days from the date of the order. The concluding phrase of Rule 18 “*unless the time is extended by the Court*” confers an inherent discretion on the Court to extend the time for amendment, even after the prescribed period has lapsed. Any interpretation contrary to this, including the one suggested by the learned counsel for the petitioners in the instant case, would render this crucial portion of the provision otiose. Such a construction would be inconsistent with the established principles of statutory interpretation.

28. In *SA Venkataraman v. State*¹³, the Supreme Court emphasized that “*in construing the provisions of a statute, it is essential for a Court in the first instance to give effect to the natural meaning of the words used therein, if those words are clear enough.*” Applying this principle, the plain and natural meaning of the words in Order VI Rule 18 CPC clearly inheres the power in the Court to extend the time for amendment, rendering the provision both functional and effective. Order VI Rule 18, in its first part, inheres two fundamental aspects. *Firstly*, the discretion of the Court to prescribe a time frame for the party to place on record the amended document, and *secondly*, the power to extend the time i) beyond the time

¹² AIR 1957 SC 907

¹³ AIR 1958 SC 107



initially prescribed and ii) in the event no time is specifically prescribed, the default time period of 14 days, as the case may be, as deemed appropriate by the Court. Thus, reading of Order VI Rule 18 on the anvil of the literal rule of interpretation reinforces the view that the Court holds inherent powers to extend the time for amending the pleadings.

29. With respect to the provisions of Section 148 of the CPC, it is seen that the same are generic in nature and provide that when a period is fixed or granted by the Court for performing any act prescribed or allowed by the CPC, the Court, at its discretion, may enlarge such period. However, this extension is subject to a maximum limit of thirty (30) days in total, if the originally fixed or granted period has already expired.

30. The provisions enshrined under Section 148 of CPC assume a residuary character, primarily finding application in circumstances where no specific provision conferring such power is discernible within the framework of the Code. However, Order VI Rule 18 of the CPC unequivocally governs the timeline for effectuating amendments, mandating compliance either within the period prescribed by the Court or, in the absence of such explicit prescription, within fourteen (14) days from the date of the order. The provision expressly reserves the discretion of the Court to extend the prescribed time, thereby affording sufficient latitude to the Court.

31. Upon analyzing 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 VI Rule 18 of the CPC. Consequently, the Court does not need to rely on Section 148 of the CPC to limit such extension of time to a total period of thirty (30) days. Nonetheless, the Supreme Court in *Salem Advocate Bar Association* 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 of the CPC, in *Salem Advocate Bar Association*, the Supreme Court observed that a rigid application of the section could lead to absurd outcomes. To avoid such results, the Court emphasized the need to allow the full operation of Section 151 of the 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 Paragraph No. 41 of the decision reads as follows:-

“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 ***Nashik Municipal Corporation***, 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 Association, T.N.***, 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 favor 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 Doc. Trust***, a Co-ordinate 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***. Against the decision of the Co-ordinate Bench of this Court in ***South Asia Human Rights Doc. Trust***, an appeal was filed, which was subsequently dismissed *vide* order dated 09.01.2012, in FAO (OS)12/2012.

35. However, the reliance placed by the Co-ordinate Bench on the decision of the Supreme Court in ***T.N. Rajasekar*** appears to have been misplaced. Upon examination, the case of ***T.N. Rajasekar*** does not touch upon the powers of the Court under either Section 148 of the CPC or Order VI Rule 18 of CPC. It seems that the reference to this decision in the context



2025:DHC:1843



of the powers to extend the time for amendment was an inadvertent error, as the judgment does not pertain to the legal issue at hand.

36. Notwithstanding the inadvertent reliance on *T.N. Rajasekar*, the legal position enunciated in *South Asia Human Rights Doc. Trust* continues to hold merit and finds favor with this Court. The interpretation of Order VI Rule 18 of CPC, as expounded therein, aligns with the correct legal understanding and remains consistent with the principles governing the discretionary powers of the Court to extend the time for amendments, as vested under the said provision.

37. The Court therein recognized that judicial discretion is inherently vested in Courts to ensure that procedural rigidity does not become an impediment to the administration of justice. The principle that substantive justice must prevail over procedural constraints has been time-tested, with it being well established that procedural law exists not as an end in itself but as a means to facilitate the attainment of justice and to not thwart the same. There are various instances where it was observed that, even in the absence of an express provision, a liberal construction of procedural rules has been adopted by the Courts to serve the ends of justice. In the present case, however, recourse is available to an express provision that unequivocally preserves the power of the Court to extend the time prescribed. The provision contained in Order VI Rule 18, which governs the issue under consideration, is found to be devoid of any limitation on the discretion conferred upon the Court. To import a restriction from the general framework of Section 148 would not only be unwarranted but would also



amount to an impermissible curtailment of a power expressly conferred by the legislature.

38. The plain and unambiguous language of Order VI Rule 18 leaves no room for an interpretation that fetters the authority of the Court in extending the time when the demands of justice so necessitate. A construction that seeks to restrict such discretion would not only defeat the legislative intent but would also lead to consequences that are neither just nor equitable, thereby precluding the Court from discharging its essential function of ensuring the ascertainment of truth and the effective dispensation of justice in accordance with law.

39. Much reliance has been placed by learned counsel for the petitioners on the decision of this Court in *Glaxo Smithkline Consumer Healthcare* to support the argument that the time period for filing an amended document, whether prescribed by the Court or limited to fourteen (14) days in the absence of a prescribed period, is strictly non-extendable beyond thirty (30) days. The decision in *Glaxo Smithkline Consumer Healthcare* primarily draws upon the ruling of the Rajasthan High Court in *Darshan Singh*. The said decision considers the interplay between Section 148 of CPC and Order VI Rule 18 of CPC. The Court in *Glaxo Smithkline Consumer Healthcare* held that a combined reading of these provisions restricts the Court from enlarging the time for filing an amended plaint beyond the prescribed period or the statutory fourteen (14) days, as applicable, with an absolute outer limit of thirty (30) days.

40. A careful examination of paragraphs nos. 9 and 11 of the said decision reveals that while it acknowledges the discretionary power of the



Court to extend time under Order VI Rule 18 of CPC, it concludes, upon juxtaposing the provisions of Section 148 of CPC, that such an extension is confined to a maximum of thirty (30) days. This interpretation effectively limits the scope of the discretion of the Court under Order VI Rule 18 of CPC when read in conjunction with Section 148 of CPC. The findings rendered in paragraphs nos.9 and 11 of ***Glaxo Smithkline Consumer Healthcare***, read as under:-

“9. It may be recalled that in the present case this Court had on 17th November 2008 while allowing the applications for amendment of plaint directed that the amended plaint shall be filed by the Plaintiff within three weeks thereafter. Therefore, in terms of the said order the amended plaint ought to have been filed by 8th December 2008. Admittedly the amended pliant was filed only on 17th February 2009. Under Order VI Rule 18 CPC the Plaintiff “shall not be permitted to amend after the expiration of such limited time as aforesaid or of such 14 days as the case may be, unless the time is extended by the Court”. There is, therefore, a power of the Court to extend the time. Under Section 148 CPC, after the amendment in 2002, the discretion vested in the Court to enlarge the time cannot exceed 30 days in total “even though the period originally fixed or granted may have expired.” A collective reading of Section 148 and O VI Rule 18 CPC would show that the Court can not enlarge the time for filing the amended plaint beyond 30 days of the period fixed by the Court in the order by which the amendment is allowed and where no such time is fixed within 14 days from the date of such order. In the instant case the amended plaint was filed on 17th February 2009 i.e. more than 30 days beyond the date fixed by the Court. The application seeking condonation of delay was itself filed much later i.e. 18th May 2009. Clearly the Court cannot condone the delay in filing the amended plaint in the facts and circumstances.

11. The reliance is placed by learned counsel for the Plaintiff on the decision in MachipeddiRemaswamy v. Buchi Reddy, is to no avail. In the considered view of this Court the exercise of the power under Section 151 CPC is not warranted in the facts and circumstances of the present case.”



2025:DHC:1843



41. If the aforesaid findings are examined in the context of the pronouncement of the Supreme Court in *Salem Advocate Bar Association*, particularly as noted in paragraph 41 thereof, it becomes evident that the reasoning adopted in *Glaxo Smithkline Consumer Healthcare* runs counter to the settled legal position. The decision in *Salem Advocate Bar Association* establishes that the upper limit prescribed under Section 148 of the CPC cannot operate to curtail the inherent power of the Court to pass appropriate orders necessary to advance the ends of justice or to prevent an abuse of judicial process. Consequently, the observations made in paragraphs 9 and 11 of the decision in *Glaxo Smithkline Consumer Healthcare*, rendered without due consideration of the binding precedent in *Salem Advocate Bar Association*, stand vitiated by *per incuriam*. Furthermore, the ceiling imposed by Section 148 does not, in any manner, restrict the discretion of the Court to issue orders aimed at preserving the integrity of judicial proceedings. It is also imperative to note that reliance on Section 151 of the CPC arises only upon an assumption that the power conferred under Order VI Rule 18 stands fettered by Section 148. However, as has already been discussed, such an assumption is fallacious, for the plain and grammatical construction of Order VI Rule 18 indicates that its operation remains unaffected by the general provisions of Section 148. Thus, any interpretation suggesting that Section 148 serves to limit or curtail the discretion vested in the Court under Order VI Rule 18 would amount to a misreading of the statutory scheme.

42. With respect to the decision in *Rajiv Gupta*, as rendered by the Division Bench of this Court, it is observed that the matter did not involve



any order permitting amendment under Order VI Rule 18 of CPC. This specific limitation is expressly noted in paragraph no. 10(iv) of the judgment, which states as under:-

“(iv) Since no order extending the time for amendment of pleadings in terms of Order 6 Rule 18 CPC had been passed and the amendments not having been carried out, the claimants could not be permitted to amend its pleadings.”

43. Given the above, the said decision does not establish a binding precedent concerning the scope of Order VI Rule 18 of CPC, particularly with respect to the extension of time beyond the period prescribed in the original order or, in the absence of such prescription, beyond the statutory 14days’ timeframe. Consequently, the decision is not determinative of the issue at hand and does not contribute to the jurisprudence governing the extension of time under Order VI Rule 18 of CPC.

44. In the case of ***Pramod Gupta (D)***, the Supreme Court addressed the consequences of failing to amend pleadings within the time specified in the order or as prescribed under Order VI Rule 18 of CPC. Paragraph no. 138 of the decision explicitly states that such failure results in the party being barred from amending the pleadings thereafter, except where the Court exercises its discretion to extend the time. The relevant portion reads as follows:-

“138. It may be true that not only the memorandum of appeal but also the reference was amended. Mr Rao pointed out that the necessary amendments have been carried out in the application for reference or memorandum of appeal. In terms of Order 6 Rule 18 of the Code of Civil Procedure, such amendments are required to be carried out in the pleadings by a party which has obtained leave to amend his pleadings within the time granted therefor and if no time was specified then within fourteen days from the date of passing of the order. The consequence of failure to amend the pleadings within the period



specified therein as laid down in Order 6 Rule 18 of the Code is that the party shall not be permitted to amend its pleadings thereafter unless the time is extended by the court. It is not in dispute that such an order extending the time specified in Order 6 Rule 18 has not been passed.”

45. Furthermore, in ***Glaxo Smithkline Consumer Healthcare*** and ***Darshan Singh***, the Court declined to extend the period for amendment primarily due to the insufficiency of reasons or explanations provided for the delay caused. The decisions emphasized that where no satisfactory explanation is offered for failing to comply with the prescribed timeline, the extension of time cannot be granted. Paragraph no. 10 of ***Glaxo Smithkline Consumer Healthcare***, which encapsulates this reasoning, reads as under:-

“10. The legislative intent in curtailing the discretion of the Court to condone the delay is evident from the amendment made in 2002 to Section 148 CPC. Although discretion is vested in the Court, the period up to which delay can be condoned by it is limited to 30 days after the date of the order. In Union of India v. Pramod Gupta it has been explained by the Supreme Court in para 146 that the consequence of failure to amend the pleadings within the period specified under Order VI Rule 18 CPC would be that “the party shall not be permitted to amend the pleadings thereafter unless the time is extended by the Court.” In Darshan Singh v. Kewal Krishan in similar circumstances after noticing the amended Section 148 CPC the learned Single held as under:

“20. From the above, a clear picture emerges that in both the eventualities i.e. where the Court has fixed a time for filing the amended pleadings and where no time has been fixed and a parte is to file it within fourteen days from the date of the order, the Court has been clothed with the competence to extend the time. However, the time is not to be extended in a routine manner. The Court has to examine the facts and circumstances and if it comes to the conclusion that there was “sufficient cause” or “good cause” or “sufficient grounds” on which the party could not file the amended pleadings, the period may be extended.

21. Section 148 of the Code empowers the Court to enlarge the time allowed by the Court or prescribed by the Code. However, by the Code of Civil Procedure (Amendment) Act, 1999 (for short, “the Act, 1999”), the said provision stood amended to the effect that the period can be extended by the Court not exceeding



thirty days in total Section 32 of the Amendment Act, 1999, providing for repeal and saving, does not save anything, so far as Section 148 of the Code is concerned. Therefore, being procedural law, it may be held that the Court may have the power to extend the period but not beyond the period of thirty days in total from the date of expiry of the period.

22. The provisions of Order 6, Rules 17 and 18 of the Code were sought to be repealed by the provisions of Section 16 of the Act, 1999, but by virtue of the provisions of Section 7 of the Code of Civil Procedure (Amendment) Act, 2002 (for short, "the Act, 2002"), they have been substituted and in language, there is not much substantial difference which may have any bearing on the instant case. Clause (b) to Sub-section (2) of Section 16 of the Act, 2002, which provides for repeal and savings, provides that the amendment shall not apply in respect of pleadings filed before commencement of the Amendment Acts, 1999 and 2002, i.e. 1-7-2002. Thus, the case is not affected by the said amendment at all.

23. In view of the amendment under Section 148 of the Code w.e.f. 1-7-2002, the Court can extend the period maximum to thirty days in total and as the old proceedings have not been saved in the repeal and savings clauses, it is evident that the Court has no power even in the old cases to extend the period beyond thirty days. Thus, in the instant case, even if the revision is allowed, no useful purpose would be served for the reason that the application for extension of time under Section 148 of the Code had been filed after expiry of more than three months."

46. However, it is pertinent to note that if the Courts were of the view that they lacked the power to extend the time beyond thirty (30) days, there would have been no occasion to assess the sufficiency of the explanation for the delay. The very act of evaluating the reasons presented suggests an implicit acknowledgment of the discretionary power vested in the Court to grant an extension under appropriate circumstances.

47. A similar approach was resorted to by the High Court of Rajasthan in *Darshan Singh*, where the Court delved into the interplay between



statutory timelines and judicial discretion under Order VI Rule 18 of CPC.

The relevant paragraphs read as follows:-

“33. The only explanation furnished for the delay in the application has been that the petitioner's counsel was under the impression that he had to file the amended pleadings on the date when his other application under O. 13, R. 2 of the Code was to be heard. The question does arise whether such an impression can constitute “Sufficient ground”. The question does further arise as to whether the impression was based on his legal acumen or knowledge of statutory provision or his action was bona fide or whether it can be held to be inevitable cause for which he could, in no way be held responsible. The mistaken advice or ignorance of law may be a “sufficient cause” depending upon the facts and circumstances of a particular case.

37. Thus, in view of the above, it may be held that in such a circumstance, the mistake of a counsel may be taken into account and considered as a “sufficient cause”, but there can be no general proposition that mistake of counsel, by itself, is always a “sufficient cause”. Prima facie I am of the view that such an impression of the counsel does not constitute sufficient ground. But even if it is so no relief can be granted at this stage because of the amendment in Section 148 of the Code, as explained above.”

48. In ***Evoke Building Concepts Pvt. Ltd. v. Hindware Home Retail Pvt. Ltd***¹⁴, a Co-ordinate Bench of this Court addressed the issue of extending the timeline for amending pleadings beyond the prescribed period under Order VI Rule 18 of CPC. The Court examined the precedent established in ***Glaxo Smithkline Consumer Healthcare*** and noted that the explanation for delay provided by the applicant in that case was deemed insufficient. However, the Bench in ***Evoke Building Concepts*** relied upon the judgment of the Supreme Court in ***Salem Advocate Bar Association***, which emphasized on the inherent powers of the Court to allow amendments in the interest of

¹⁴2010 SCC OnLine Del 3855



justice, even beyond the prescribed period. Paragraph 8 of the judgment reads as follows:-

“8. The Court has carefully considered the submissions; the decisions in Pramod Gupta (D) by L.Rs. (Supra) undoubtedly suggests that the Court is bound by the period prescribed in Order VI Rule 18 and that in the event of a party defaulting in placing the amended pleadings on the record, the amendments ought to be rejected. Further, at the same time, this Court notices that Salem Advocate Bar Association, Tamil Nadu (Supra) case is by a larger Bench of three Judges. That appears to have been pronounced on 02.08.2005, in close proximity with the ruling in Pramod Gupta (D) by L.Rs. (Supra), which was rendered on 07.09.2005. In Salem Advocate Bar Association, Tamil Nadu (Supra), the Court was directly concerned with the power of the Court under Section 148 CPC and as the extracted portion appears to indicate, unless the period of limitation is prescribed by the legislature itself, such as in the case of statutory enactment like the Limitation Act, the Court has been held to possess power's under Section 148, to extend the period for the purpose of one or the other obligation spelt-out by it in the course of proceeding. So far as the order in Glaxo Smithkline Consumer Healthcare (Supra) is concerned, this Court is inclined to accept the argument of the defendant that the explanation for the delay was rejected in the order.”

49. The Court deems it appropriate to reiterate the settled principle of law that procedural rules are handmaidens of justice and should not be applied with hyper-technical rigor that undermines the cause of substantial justice. The Supreme Court in *State of Punjab v. ShamlalMurari*¹⁵, observed that procedural prescriptions are intended to advance the cause of justice and not to defeat it. The Court held as under:-

“8....We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice. Where the non-compliance, tho' procedural, will thwart fair

¹⁵(1976) 1 SCC 719



hearing or prejudice doing of justice to parties, the rule is mandatory. But, grammar apart, if the breach can be corrected without injury to a just disposal of the case, we should not enthrone a regulatory requirement into a dominant desideratum. After all, courts are to do justice, not to wreck this end product on technicalities. Viewed in this perspective, even what is regarded as mandatory traditionally may, perhaps, have to be moderated into wholesome directions to be complied with in time or in extended time.”

50. Once an amendment has been allowed on merits, but the prescribed time for incorporating the amendment has lapsed, it would be within the inherent powers of the Court under Order VI Rule 18 of CPC to grant an extension. Such discretion, however, must be exercised judiciously and only when the conduct of the party seeking an extension does not reflect contumaciousness, gross negligence, or any ulterior motive. The Supreme Court in *Kailash v. Nanhku*¹⁶ held that the object of procedural laws is to facilitate the administration of justice and not to frustrate it, particularly when no significant prejudice is caused to the opposing party. Thus, extensions may be granted in furtherance of substantial justice. No doubt, the Court must examine the reasons for delay and must curb any attempt to abuse the judicial process.

51. In light of the foregoing discussion, this Court finds no merit in the objection raised by the petitioners in asserting that the Court lacks the power under Order VI Rule 18 of the CPC to extend the time prescribed in an order, or to extend beyond the fourteen (14) days period stipulated in cases where no specific timeline is mentioned. The inherent authority of the Court to grant such extensions, as established by judicial precedents and the plain reading of Order VI Rule 18, is well-recognized and cannot be undermined

¹⁶(2005) 4 SCC 480



by a rigid interpretation that runs counter to the principles of substantial justice.

52. Applying the aforesaid broad principles guiding the issue, let us consider the present application, and whether the same passes the test as stipulated herein.

Extension of Time Hinges on Justifiable Delay

53. So far as the justification for placing on record the amended written statement with delay is concerned, the respondents herein have explained the following circumstances:-

- a. The Court had granted six weeks time to file the amended written statement *vide* order dated 14.01.2016.
- b. Then counsel traveled to Punjab [09.02.2016–21.02.2016] for his ailing mother.
- c. Respondent No. 4 traveled to Canada on 22.02.2016 due to the illness of his grandson and returned only on 03.03.2016.
- d. Respondent No. 4 suffered from fatigue, fever, and hepatitis C post-travel and thus, required medical treatment.
- e. Then counsel of the respondent No.4 suffered from heat stroke and typhoid in April-May 2016. He was hospitalized and advised bed rest.
- f. An appeal challenging the order was filed on 16.03.2016 before the Division Bench.
- g. Then counsel had to travel to Punjab again [09.04.2016–18.04.2016] due to the health of his mother.
- h. The amended written statement was eventually filed on 11.07.2016.



2025:DHC:1843



54. However, upon noting certain discrepancies in the travel dates mentioned in the application under Section 148 and the rejoinder filed thereto, the Court, *vide* order dated 17.01.2025, directed the respondents herein to file an affidavit clarifying the said inconsistencies.

55. In the affidavit dated 25.01.2016, the respondent has taken the following position:-

- a. On 14.01.2016, the application seeking amendment of the written statement was partially allowed, and on 21.01.2016, an application was filed for obtaining a certified copy of the said order dated 14.01.2016.
- b. While the certified copy was made available by the copying section only on 01.02.2016, the date of receipt was recorded as 27.01.2016. The deponent attributed this inconsistency to some delay on behalf of the copying section.
- c. Prior to the purported actual date of receipt of the certified copy on 01.02.2016, the deponent had to leave for Canada to facilitate medical treatment for his grandson. Accordingly, the invoice/receipt for obtaining the certified copy was handed over to the then counsel representing him. The date of travel to Canada is not mentioned specifically.
- d. The deponent commenced his return journey on 01.03.2016 and arrived in India on 03.03.2016. On 04.03.2016, he was able to collect the certified copy. He further submits that due to his illness, which led to his hospitalization in Bijnor, Uttar Pradesh, he was unable to provide any further instructions to his then counsel. The deponent



asserts that his hospitalization is supported by relevant medical records.

- e. He further undertakes that the medical records of his grandson, who was purportedly admitted in Canada, are protected under the *Canada Personal Information Protection and Electronic Documents Act*, which prohibits the disclosure of sensitive medical information without authorization. He asserts that both his son and grandson have declined to use such sensitive medical information for the purposes of litigation.
- f. Regarding his travel to Canada, the deponent states that the original passport recording his departure date was surrendered to the Canadian authorities, and he was issued a new passport on 16.02.2016. As a result, he is unable to furnish any records of his original travel details. Furthermore, he has been unable to trace any financial records pertaining to ticket bookings or other supporting documentation. However, he affirms that if any such evidence is located, he shall present it before the Court.

56. Vehemently controverting the contents of the affidavit, learned counsel for the petitioners has made the following contentions:-

- a. There exists no legal prohibition under Canadian law preventing a passport holder from retaining their old passport upon renewal. Consequently, the assertion of the respondent that the passport was surrendered to Canadian authorities lacks *bona fides*.
- b. The affidavit conspicuously omits any disclosure of the actual date of travel to Canada. The deponent continues to withhold this information



from the Court, citing the surrender of his old passport as a reason for the lack of evidence. This deliberate non-disclosure raises serious doubts regarding the veracity of his claims. The purported lack of information regarding travel dates to Canada is untenable and appears to be a calculated attempt to obfuscate the actual date of travel.

- c. He also contends that the medical reports can be obtained and even assuming they are restricted information, the grandson and son of the deponent could well provide the information and they are choosing to not provide the same, thus further pushing the *bonafides* of the deponent into question.
- d. It is further contended that the medical reports of the grandson of the deponent can be obtained lawfully. Even assuming that such records are classified as protected information under Canadian law, the grandson and son of the deponent are in a position to voluntarily provide the necessary details. Their purported refusal to do so further casts doubt on the *bona fides* of the submissions of the deponent.
- e. He further submits that while obtaining the certified copy of the order dated 14.01.2016 may have been necessary for filing of the appeal against the order, the same has no bearing on the timeline for the filing of the amended written statement and also, he further contends that the order dated 14.01.2016 is uploaded on the website of the Court and he contends that the process of filing the appeal against the order dated 14.01.2016 could have been well done while also complying with the directions thereunder, under protest.



57. Thus, upon considering the submissions of the parties regarding the travel dates to Canada and examining the affidavit placed on record, the Court finds itself unable to accede to the contention of the respondents for the following reasons:-

- i. The respondent has primarily contended that he was unable to file the amended written statement due to his unexpected travel to Canada and the subsequent illness he suffered. However, a perusal of the affidavit and submissions reveals that there is no concrete timeline regarding his travel, nor has he furnished any documentary evidence substantiating the dates of his journey. Thus, the foundational cause of delay remains unsubstantiated.
- ii. The assertion of the respondent that he possesses no documentation whatsoever, such as an email, passport, visa-stamped photograph, flight ticket, or even a digital copy of any of these, strains the credulity of the submission. The sole requirement was for the respondent to specify the exact date of his departure to Canada, which he failed to do. The Court is of the opinion that such information is elementary and could have been readily provided. In the absence of any supporting documentation, the Court is constrained to conclude that the travel dates of the respondents remain undetermined.
- iii. The knowledge of the order dated 14.01.2016 was, in itself, sufficient to require compliance. At no point in the affidavit has the respondents averred that they were unaware of its contents. On the contrary, it was stated by the learned counsel for the petitioners that



the order was dictated in open court in his presence and the said fact remains uncontroverted by him. Consequently, the presumption of due knowledge of the order dated 14.01.2016 stands established, rendering his argument, regarding the necessity of obtaining a certified copy, immaterial to the obligation of filing the amended written statement.

- iv. The present *lis* pertains solely to the limitation period for filing the amended written statement and does not concern the limitation for filing an appeal against the order dated 14.01.2016. Given that the respondent was aware of the order on the same day and, even by his own admission, he had not traveled to Canada until the end of January 2016, his plea that he lacked sufficient time to provide instructions to his then-counsel is devoid of merit.

58. Thus, in light of the foregoing observations, the Court is of the considered opinion that while it possesses inherent powers under Order VI Rule 18 of the CPC to take on record the amended written statement by extending the time prescribed for amendment, the facts and circumstances of the present case do not warrant the exercise of such discretion. The delay is, by and large, unexplained and the underlying reasons for the delay remain unsubstantiated. The respondent has failed to demonstrate any *bona fide* justification for seeking an extension and has exhibited a conspicuous reluctance to clarify the travel dates, which are patently inconsistent across various documents submitted on his behalf.

59. Accordingly, the Court finds no merit in the application and declines to extend the time for taking on record the amended written statement.



2025:DHC:1843



Consequently, the instant application stands rejected on account of the expiration of the prescribed period for filing the amended written statement.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

MARCH 19, 2025
p/nc/sp