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

% *Date of Decision: 10.09.2025*

\+ **CM(M) 1757/2025, CM APPL. 56901/2025 & CM APPL. 56902/2025**

ICAR NATIONAL RESEARCH CENTER OF PLANT BIOTECHNOLOGY .....Petitioner

Through: Mr. S. S. Lingwal, Advocate (*through videoconferencing*).

versus

AZAD SINGH DAGAR PROP M/S SERVITOR INTELLIGENCE .....Respondent

Through: None.

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. Petitioner, defendant in the suit, has assailed order dated 19.01.2019 (*whereby its defence was struck off*) and order dated 30.05.2025 (*whereby its review application and application under Order VIII Rule 1 CPC were dismissed*) passed by the learned trial court.

2. Having heard learned counsel for petitioner, I do not find this petition fit to even issue notice.

3. Broadly speaking, in the suit filed by the present respondent for

recovery of Rs. 4,86,400/-, the present petitioner was served with summons on 25.07.2018, but till 19.01.2019, Written Statement was not filed, so the learned trial court struck off the defence vide order dated 19.01.2019. The petitioner took order dated 19.01.2019 for review, but even the review application was dismissed by the learned trial court vide order dated 30.05.2025. Along with the review petition, the present petitioner also filed an application under Order VIII Rule 1 CPC seeking condonation of delay in filing the Written Statement pertaining to the period from 25.07.2018 to 28.11.2020, which application also was rejected. Hence, the present petition.

4. Learned counsel for petitioner, after taking me through the aforesaid, contends that as per legal position, the procedural irregularities should not be used to defeat substantive rights of the parties. As regards the colossal delay for the period from 25.07.2018 to 28.11.2020 in filing the Written Statement, the explanation advanced on behalf of petitioner is the routine delays of government machinery. No other argument has been advanced on the issue of delay in filing the Written Statement and striking off of the defence.

5. As reflected from the impugned order dated 19.01.2019, summons were served on the present petitioner on 25.07.2018 but even on 19.01.2019, the petitioner did not file Written Statement, so the defence was struck off. As reflected from the impugned order dated 30.05.2025, ample opportunities were given to the present petitioner for filing the Written Statement but the same were not availed of. Observing that the review jurisdiction has a very

limited scope, the learned trial court dismissed the review application with cost, which cost remains not paid till date. As regards application under Order VIII Rule 1 CPC filed with the Written Statement, on 30.05.2025 the said application was dismissed by the learned trial court holding that without setting aside order dated 19.01.2019, whereby the defence had been struck off, the Written Statement could not be taken on record. The learned trial court also observed in order dated 30.05.2025, that the present petitioner now has limited right to cross examine witnesses of the present respondent and address arguments.

6. Of course, procedure is handmaid of justice and technicalities must not be allowed to infringe upon substantive rights of parties. But even the substantive rights have to be claimed and granted following procedure prescribed by law. In the name of substantive rights, the procedural requirements cannot be trashed. The entire purpose of codification of the civil procedure would be rendered otiose if not adhered to.

7. As mentioned above, summons of the suit were duly served on the present petitioner on 25.07.2018 and that being so, the statutory period to file Written Statement as a matter of right expired on 24.08.2018. Thereafter, the period extendable vide proviso to Order VIII Rule 1 CPC expired on 24.10.2018. It is trite that even after expiry of 90 days of service of summons, the courts are not powerless to condone the delay and to accept the Written Statement on record; but such power has to be exercised only in exceptional circumstances. In the present case, the Written Statement for the

first time was brought before the trial court only on 04.05.2019, even according to learned counsel for the present petitioner.

8. So far as the explanation *qua* the inordinate delay in filing the Written Statement beyond even 90 days after service of summons is concerned, the only explanation advanced is the lethargy in the government machinery. In its application under Order VIII Rule 1 CPC, it was vaguely stated that the summons were received by the present petitioner on 25.07.2018 and the matter was sent for legal opinion, followed by the appointment of government counsel and approval of draft Written Statement. But no specific explanation has been advanced giving date-wise movement of file to show that there was no lack of diligence on the part of the officials dealing with the matter.

9. The petitioner being an instrumentality of State, owing to impersonal machinery, certain lethargy and carelessness, if not deliberate default to help the other party, cannot be ruled out. But it also cannot be ignored that there is no separate procedural law for government authorities. The provision under Order VIII Rule 1 CPC operates equally for the Subjects as well as the State. In a case where the government authorities are able to establish the cause of the default as a fraud or connivance of its officers with the opposite party, status may be different. But that is not the present case.

9.1 In the case of ***Union of India vs Wishwa Mittar Bajaj & Sons***, 141 (2007) DLT 179, it was held thus:

"41. It is well settled that ***administrative delays which are urged by the respondents have to be properly and adequately explained. Negligence or indifference on the part of the authority or its officers in pursuing a matter cannot be condoned simply because the applicant is a State or government undertaking. The law of limitation remains the same and certainly there cannot be two laws, one governing the State and the other governing individuals.*** *Cryptic and routine explanations for condonation of delay cannot be accepted as adequate explanation or sufficient cause for condonation of delay. (Re:* ***DDA vs Ramesh Kumar****) This Court in several judgments has noted the manner in which matters are proceeded with utmost casualness on the part of the State and its officials. In this behalf, in a decision rendered on 2nd December, 1988 reported as* ***UOI vs Mangat****, noticing the judgments of the Apex Court where delay was condoned observed thus:*

> *"4. ...The Supreme Court was thus concerned with isolated cases of said aberrations.* ***What we are facing in this Court is a spate of delayed appeals without any proper and convincing explanation or even an attempt in doing so. It is a common experience of Benches of this Court that the condonation applications are in a cyclostyled form and only the dates and days are filled in hand.*** *The stay applications are also mechanically drafted and are in one standard cyclostyled form. Usually, the appeals are filed with defects. After the Registry points out the defects, the defects are not removed for months together. We do not think that the Supreme Court judgments can be usefully availed of by the Union of India in the colossal situation of negligence and delays as we find in this Court.* ***In fact, it appears that the liberal approach of the higher courts and the understanding of the difficulties of the Government departments shown by the courts have not been appreciated in its proper perspective by the Government departments. Nobody in the Government Department feels any responsibility or takes any responsibility for the delay caused in the movement of files. There is no conscious and systematic efforts to keep the deadline of limitation in view and to speed up the disposal at various stages.*** *If a serious effort is made in the Government Departments to fix the responsibility on the persons causing delay the present sorry state of affairs can be rectified substantially within short time. Occasionally, important*

questions of law or principles of compensation or heavy financial stakes are involved in land acquisition matters. The agencies of the Government involved in the acquisition, unfortunately, seems to be completely oblivious of these considerations. In some cases there is great urgency of acquisition of land for urgent developmental projects. They are likely to be frustrated by the habitual negligence of Government departments.

5. The practical problem in the day to day cases is how to reconcile the two principles laid down by the Supreme Court, namely - (i) the doctrine of equality before law demands that all litigants including the State as litigant should be accorded the same treatment and the law is administered in an even-handed manner, and (ii) it would perhaps be unfair and unrealistic to put Government and private parties on the same footing in all respects in such matters. The Supreme Court in the judgments referred to above had observed that the State should not be given step-motherly treatment. If all the petitions of condonation of delay filed in the large number of cases are to be accepted, as requested by the Government Advocate, a citizen would naturally complain that the State is being given a 'son-in-law' treatment. In ***State of M.P. & Ors vs Vishnu Prasad Sharma & Ors****. AIR 1996 SC 1593 at page 1598 the three Judges Bench of the Supreme Court observed: "In interpreting these provisions the court must keep in view on the one hand the public interest which compels such acquisition and on the other the interest of the person who is being deprived of his land without his consent." The Supreme Court further held: "the provisions of the statute must be strictly construed as it deprives a person of his land without his consent." A golden rule for reconciliation of these conflicting considerations would be to use the discretion with common sense. Extreme positions of either not condoning the delay howsoever negligible it may be or to condone the delay howsoever large and unjustifiable it may be should be avoided. The discretion has to be exercised on the basis of the facts of each case with common sense and public interest in view."*

(emphasis supplied)

9.2 In the case of ***State of Madhya Pradesh vs Bherulal***, (2020) 10 SCC 654, the Supreme Court expressed anguish over delays on the part of government machinery in dealing with litigation thus:

> "*2. We are constrained to pen down a detailed order as it appears that all our counseling to Government and Government authorities have fallen on deaf ears i.e., the Supreme Court of India cannot be a place for the Governments to walk in when they choose ignoring the period of limitation prescribed. We have raised the issue that if the Government machinery is so inefficient and incapable of filing appeals/petitions in time, the solution may lie in requesting the Legislature to expand the time period for filing limitation for Government authorities because of their gross incompetence. That is not so. Till the Statute subsists, the appeals/petitions have to be filed as per the Statues prescribed.*
> *3.* ***No doubt, some leeway is given for the Government inefficiencies but the sad part is that the authorities keep on relying on judicial pronouncements for a period of time when technology had not advanced and a greater leeway was given to the Government*** *(Collector, Land Acquisition, Anantnag & Anr vs. Mst. Katiji & Ors. (1987) 2 SCC 107). This position is more than elucidated by the judgment of this Court in* ***Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr.*** *(2012) 3 SCC 563 where the Court observed as under:*
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> > *"27)* ***It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us****.*
> > *28) Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions.* ***The claim on account of impersonal machinery and inherited bureaucratic methodology of making***

> ***several notes cannot be accepted in view of the modern technologies being used and available.*** *The law of limitation undoubtedly binds everybody including the Government.*
> *29) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red- tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few".*
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> *8. Looking to the period of delay and the casual manner in which the application has been worded, we consider appropriate to impose costs on the petitioner- State of Rs.25,000/- (Rupees twenty five thousand) to be deposited with the Mediation and Conciliation Project Committee. The amount be deposited in four weeks. The amount be recovered from the officers responsible for the delay in filing the special leave petition and a certificate of recovery of the said amount be also filed in this Court within the said period of time."*
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> *(emphasis supplied)*

9.3 In the present case, as mentioned above, the only vague explanation for such colossal delay in filing the Written Statement is explained in completely vague manner. There is not even a whiff of any averment in the case set up by the petitioner to reflect any exceptional circumstances, which could justify condonation of delay in filing the Written Statement more than 90 days after service of summons. The petitioner ought to have specifically disclosed movement of the file during the period from 24.08.2018 (*when right to file the Written Statement expired*) to 04.05.2019 (*when according to learned counsel for petitioner, for the first time the Written Statement was*

brought before the trial court) in order to analyze if there were any special circumstances, which prevented the petitioner from filing the Written Statement in time.

10. Considering the above circumstances, I am unable to find any infirmity in either of the orders impugned in the present petition, so both impugned orders are upheld and the present petition is dismissed. Pending applications also stand disposed of.

GIRISH KATHPALIA

Digitally signed by GIRISH KATHPALIA
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GIRISH KATHPALIA
(JUDGE)

SEPTEMBER 10, 2025/*dr*