



2025:DHC:8997



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

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Date of Decision: 10.10.2025

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CM(M) 1961/2025, CM APPL. 63525/2025 & CM APPL. 63524/2025

TARANJEET SINGH KOHLI

.....Petitioner

Through: Ms. Sangeeta Chandra, DHCLSC
with petitioner in person.

versus

KAWALJEET KAUR KOHLI

.....Respondent

Through: None.

CORAM: JUSTICE GIRISH KATHPALIA**ORDER (ORAL)**

1. Petitioner has assailed order dated 28.07.2025 of the learned trial court, whereby his application under Section 151 CPC for permission to file Written Statement after delay of almost six years as well as application under Order VIII Rule 1 CPC for condonation of delay in filing the Written Statement were dismissed.

2. Having heard learned counsel for petitioner/defendant at length, I do not find any merit to even issue notice of the petition.

3. Admittedly, summons of the suit were served on the petitioner/defendant on 25.09.2019 and he entered appearance before the



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trial court on 01.10.2019 and was granted time to file Written Statement. But the Written Statement was not filed within the statutory period. Not even any application for enlargement of time to file the Written Statement was moved by the petitioner/defendant. It is almost six years after service of summons that the petitioner/defendant moved an application under Section 151 CPC seeking permission to file Written Statement; and thereafter, the petitioner/defendant filed another application under Order VIII Rule 1 CPC seeking condonation of delay in filing the Written Statement. Both those applications were dismissed by way of the impugned order.

4. Learned counsel for petitioner/defendant contends that it is the previous counsel of the petitioner/defendant who did not file Written Statement in time and for the fault of the counsel, the litigant be not made to suffer. Learned counsel for petitioner/defendant has also taken me through the copies of the said applications, and it is submitted by her that even the applications were totally cryptic.

5. In paragraph 3 of the application under Order VIII Rule 1 CPC, it is pleaded that “*due to some inadvertent mistake of the counsel*” for the petitioner/defendant, the Written Statement was not filed along with reply to the application under Order XXXIX Rule 1 & 2 CPC and with application under Order VII Rule 14 CPC; and that the matter was sent to Mediation Centre where parties settled the disputes and entered into Memorandum of Understanding on 02.07.2024.

6. There is no blanket rule that for negligence or misconduct of the



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counsel, the litigant would not suffer. The court has to examine the overall facts and circumstances of the case. Otherwise, for every failure, every counsel would blame the previous counsel. Present is not a case of an illiterate litigant and even the delay in filing Written Statement is not of few days or months, but six years. It is nobody's case that the petitioner/defendant remained unaware of requirement to file Written Statement across a period of six years. The summons, which were admittedly received by the petitioner/defendant on 25.09.2019 categorically informed in English and Hindi that he had to file Written Statement within the period of 30 days, so it cannot be believed that for six years, the petitioner/defendant was not aware that he had to file Written Statement in time. There is also not even a whisper disclosing as to when the petitioner/defendant realised his default as regards filing of the Written Statement. More significantly, if the previous counsel for petitioner/defendant could file reply to application under Order XXXIX Rule 1 & 2 CPC, there was no reason for not filing the Written Statement in time.

7. There is another aspect, though not raised during arguments by learned counsel today. On 25.10.2019, along with his reply to the application under Order XXXIX Rule 1 and 2 CPC, the petitioner/defendant also filed an application under Order VII Rule 11 CPC. If the petitioner could file those two pleadings, nothing prevented him from filing the Written Statement. Even the application under Order VII Rule 11 CPC got dismissed on 07.12.2022, but despite that the petitioner/defendant opted not



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to file Written Statement soon thereafter.

8. It is not just a delay of six years in seeking to file Written Statement; it is also an issue of complete absence of reasonable and believable explanation for default. Both on the counts of the length of delay as well as reasonably believable cause, the present petition must fail. Rather, as narrated above, the petitioner/defendant undoubtedly opted not to file Written Statement across such colossal period of six years with the oblique motive to protract the suit so that the present respondent/plaintiff gives up the litigation in frustration.

9. I am unable to find any infirmity in the impugned order, so the same is upheld and the present petition as well as the accompanying applications are dismissed.

10. However, at request of learned counsel for petitioner/defendant, it is made clear that the petitioner/defendant shall have the limited right to cross-examine the witnesses of the present respondent.

**GIRISH KATHPALIA
(JUDGE)**

OCTOBER 10, 2025/dr