



\$~86

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

% *Date of Decision: 15<sup>th</sup> July, 2025*

+ CM(M) 1224/2025 & CM APPL. 41233-41235/2025

RAJIV GUPTA AND ANR

.....Petitioner

Through: Mr. Rajinder Mathur, Mr. Tarun Mathur and Mr. Akshat Singhal, Advocates.

versus

PRABHA DEVI AND ANR

.....Respondent

Through: None.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**J U D G M E N T (oral)**

1. Petitioner is plaintiff before the learned Trial Court and has filed a suit which seeks injunction.
2. There are two defendants in the abovesaid suit and they both were served on 11.01.2024 and were directed to file written statement within the statutory period.
3. However, when the matter was taken up by the learned Trial Court on 02.04.2024, noticing that the statutory period has already expired, the opportunity to file written statement was closed and their defense was struck off.
4. Defendants, however, moved an application seeking recall of the abovesaid order dated 02.04.2024.
5. The learned Trial Court, keeping in view the reason assigned by them, has recalled the order and permitted them to participate in the proceedings and



written statement has also been directed to be taken on record, *albeit*, with a cost of Rs.10,000/-.

6. Such order dated 27.05.2025 is under challenge.

7. The impugned order would indicate that the learned Trial Court was of the view that the procedural law is a handmaiden of justice and the written statement had been filed on 102<sup>nd</sup> day from the date of service of summons and keeping in mind the hardship cited by such defendants and their medical conditions, the learned Trial Court thought it appropriate to permit them to participate in the proceedings.

8. Learned counsel for the petitioner/plaintiff submits that such power to condone the delay should be used sparingly in appropriate cases and no litigant should assume that he can seek condonation of delay, as a matter of right. He relies upon *Bharat Kalra vs. Raj Kishan Chabra: 2021 SCC OnLine Del 3976*.

9. Fact, however, remains that the petitioner herein has invoked supervisory jurisdiction by filing a petition under Article 227 of Constitution of India and interference is warranted only when there is grave illegality or perversity in the impugned order.

10. The learned Trial Court, after appreciating the contentions made by the concerned defendants, came to conclusion that the delay had been explained properly and while exercising discretion, delay has been condoned while also burdening the defendants with cost of Rs.10,000/- for causing delay and inconvenience to the plaintiff.

11. Since the discretion seems to have been exercised in a judicious manner, this Court does not find any compelling reason to interfere with the abovesaid order by invoking supervisory powers under Article 227 of



2025;DHC:5728



Constitution of India.

12. The present petition is disposed of in aforesaid terms.
13. Pending applications, if any, stand disposed of.

**(MANOJ JAIN)**  
**JUDGE**

**JULY 15, 2025/ss/SS**