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

+ CM(M) 1119/2026 & CM APPL. 32418/2026

RAKESH SINGH

.....Petitioner

Through: Mr. Manish Pratap Singh,
Mr. Mayank Agarwal and Mr. Roshan
Kumar, Advs.

versus

VIJAY KUMAR THAREJA

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

29.07.2026

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1. The present petition under Article 227 of the Constitution of India, has been filed by the petitioner/defendant challenging the orders dated 13.03.2026 and 07.04.2026, passed by the learned District Judge (Commercial Court-02), South-East, Saket Courts, New Delhi in commercial suit bearing CS (COMM) No. 808/2025, titled as '**Vijay Kumar Thareja v. Rakesh Singh**', whereby the learned Trial Court struck off the defence of the petitioner, and whereby the learned Trial Court dismissed the petitioner's application under Section 151 of the Code of Civil Procedure, 1908¹ seeking recall of the order dated 13.03.2026, respectively.

2. The factual framework of the case unfolds as follows, the respondent/plaintiff instituted a commercial suit against the petitioner for eviction and recovery of arrears of rent amounting to ₹11,66,480/- along



with interest and mesne profits.

3. A perusal of the record indicates that, summons in the subject suit were duly served upon the petitioner on 12.01.2026, whereupon appearance was entered through learned counsel on 13.01.2026; however, the petitioner failed to place the Written Statement on record within the statutory period of 30 days.

4. Subsequently, the petitioner moved an application under Order VIII Rule 1 read with Section 151 of the CPC, seeking condonation of delay and extension of time to file the Written Statement, primarily citing outstation travel and professional commitments of the main counsel, as the ground for non-compliance.

5. The learned Trial Court, *vide* order dated 16.02.2026, in the interest of justice, allowed the application of the petitioner, and granted an additional 15 days to file the Written Statement, subject to the payment of cost of Rs. 15,000 to the respondent within one week. It was made clear by the learned Trial Court that, non-payment of cost within the prescribed timeline, would operate to automatically recall the extension. The relevant portion of the aforesaid order reads thus:

“The defendant shall pay costs of Rs. 1-5,000/- to the plaintiff within one week from today. The Written Statement alongwith affidavit of admission/denial of documents shall be filed within 15 days from today with advance copy to other side.

In case of failure to pay costs within the stipulated period, this order shall stand recalled automatically. No further extension shall be granted except in exceptional circumstances within the statutory framework. The costs are imposed considering the casual and unsupported nature of the explanation furnished by the defendant.

Application stands disposed of accordingly.

¹ Hereinafter “CPC”



Liberty is given to the plaintiff to file replication within 30 days of receipt of the written statement (s). Along with replication, if any, filed by the plaintiff, an affidavit of admission/denial of documents of defendant be filed by the plaintiff with copy to other side.”

6. The petitioner failed to comply with the conditions upon which the extension was granted.
7. On the next date of hearing, the learned Trial Court noted the non-compliance and, *vide* impugned order dated 13.03.2026, proceeded to strike off the petitioner’s defence.
8. Thereafter, the petitioner filed an application under Section 151 of the CPC seeking recall of the order dated 13.03.2026. The learned Trial Court, dismissed the recall application *vide* the impugned order dated 07.04.2026. The relevant portion of the aforesaid order reads thus:

“The cumulative effect of the above analysis is that the defendant has failed to comply with a peremptory conditional order, no sufficient or bona fide cause has been shown, the application is an attempt to circumvent statutory consequences and the relief sought is barred by settled law.

This Court is of the considered view that the present application is devoid of merit and constitutes an abuse of the process of law.

Therefore, in view the forgoing discussion, the application filed by the defendant under Section 151 CPC seeking recall of order dated 13.03.2026 is dismissed. The order dated 13.03.2026, closing the right of the defendant to file written statement, is hereby affirmed.”

9. Aggrieved thereby, the petitioner has preferred this present petition.
10. The learned counsel for the petitioner submits that, the outer limit of 120 days from the date of service of summons on 12.01.2026, had not expired when the written statement was e-filed on 13.03.2026. It is further submitted that, the failure to file the Written Statement on record within the 15-day extended period granted by the learned Trial Court was neither deliberate nor intentional, but occurred on account of the time consumed in



collating necessary evidentiary documents required to properly finalize the defence.

11. I have heard the submissions, perused the record, and examined the legal position.

12. The proviso to Order VIII Rule 1 of the CPC, as amended by the Commercial Courts Act, 2015, mandates that where the defendant fails to file the Written Statement within 30 days from the date of service of summons, the Court may allow the same to be filed on such other day as specified, for reasons to be recorded in writing, but not later than 120 days from the date of service of summons. It is settled that, the timelines prescribed under this framework are strict and mandatory.

13. In this regard, reliance is placed upon '***Sara Abode Private Limited vs. Nath Brothers Exim International Limited***'². The relevant portion of the aforesaid judgment reads thus:

“21. The position of law thus now has been settled that given the consequences of non-filing of written statement, the amended provisions of the CPC have been held to be mandatory which cannot be circumvented even by recourse to inherent power under Section 151 of the CPC. (SCG Contracts (India) (P) Ltd. v. K.S. Chamankar Infrastructure (P) Ltd., (2019) 12 SCC 210).”

14. A perusal of the record reflects, that *vide* order dated 16.02.2026, the learned Trial Court had granted a conditional extension to the petitioner. However, the petitioner neither tendered the cost of Rs.15,000/-, nor placed the Written Statement on record within the extended time of 15 days.

15. Failure to file the written statement within the extension granted by the learned Trial Court, coupled with non-compliance with the order requiring payment of cost for the extension, disentitles the petitioner from

² ***Sara Abode (P) Ltd. v. Nath Brothers Exim International Ltd.***, 2024 SCC OnLine Del 1424.



having the Written Statement taken on record.

16. The statutory scheme is mandatory and does not permit a party to enjoy an extension of time while disobeying the mandatory conditions on which such indulgence was granted. The legislative intent underlying the Commercial Courts Act, 2015 is to ensure strict adherence to timelines, therefore repeated opportunities cannot be granted to the petitioner despite the non-compliance.

17. The supervisory jurisdiction of this Court under Article 227 of the Constitution of India is limited to correcting jurisdictional errors, gross illegalities, or manifest injustice. It cannot be exercised to undermine statutory timelines in commercial suits.

18. This Court does not find any perversity, illegality, or jurisdictional error in the impugned orders dated 13.03.2026 and 07.04.2026.

19. Accordingly, the petition, along with pending applications, stands dismissed.

AJAY DIGPAUL, J

JULY 29, 2026/AS/as