



2025:DHC:6145-DB



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

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*Judgment reserved on: 22.07.2025*

*Judgment pronounced on: 29.07.2025*

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FAO(OS) 77/2025

PARAMJIT SINGH

.....Appellant

Through: Mr. Hrishikesh Baruah, Mr. Kshitij Palliwal, Mr. Sumit Saini, Mr. Prabhpreet Singh Wadhwa, Mr. Vipul Biala and Mr. Utkarsh Dwivedi, Advocates.

versus

HARDAMAN SINGH ANAND & ORS.

...Respondents

Through: Mr. Prashant Mehta, Mr. Dhruv Chawla, Mr. Vaibhav Chawla and Ms. Aadya Sinha, Advocates for Respondent Nos. 1(A) to 3.  
Mr. Siddharth A. Advocate for Respondent No. 1 (B).  
Mr. Aviral Tiwari, Advocate for Respondent No. 4.  
Mr. Dhiraj Sachdeva, Advocate for Respondent Nos. 5 and 6.

**CORAM:**

**HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR**

## **J U D G M E N T**

### **HARISH VAIDYANATHAN SHANKAR, J.**

1. The present appeal under Order XLIII Rule 1 of the **Code of Civil Procedure, 1908**<sup>1</sup> read with Section 10 of the Delhi High Court Act, 1966, impugns the **Order dated 06.05.2025**<sup>2</sup> passed by the

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<sup>1</sup> CPC

<sup>2</sup> Impugned Order



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learned Single Judge of this Court in CS(OS) 166/2023 titled as ***Paramjit Singh vs. Hardaman Singh & Ors.***

2. Issue notice. Notice is accepted by Mr. Prashant Mehta, Advocate on behalf of Respondent Nos.1(A), 2 & 3, Mr. Siddharth A., Advocate on behalf of Respondent No.2, Mr. Aviral Tiwari, Advocate on behalf of Respondent No.4 and Mr. Dhiraj Sachdeva, Advocate on behalf of Respondent Nos.5 & 6.

3. The short question that arises in the instant appeal relates to the time period within which the replications on behalf of the Plaintiff/Appellant herein, to the written statements on behalf of Defendant/Respondent Nos. 1, 2 and 3; and Defendant/Respondent Nos. 5 and 6 had to be filed.

4. The relevant facts which led up to the filing of this appeal are stated hereinbelow:

A. A civil suit was filed by the Plaintiff/Appellant herein seeking declaration of the Appellant's share in the estate in question, for rendition of bank accounts and permanent and mandatory injunction.

B. On 07.03.2023, notice was issued in the suit. The counsel for Defendant/Respondent Nos. 1, 2 and 3, and the counsel for Defendant/Respondent Nos. 5 and 6, entered appearance.

C. *Vide* Order dated 09.05.2023, written statement on behalf of Defendant/Respondent Nos. 5 and 6 was taken on record and a period of four weeks was given to the Appellant to file replication. The written statement on behalf of Defendant/Respondent Nos. 1, 2 and 3 was taken on record *vide* Order dated 15.05.2023.

D. On 17.07.2023, the Appellant/Plaintiff filed replication to



both above-mentioned written statements along with two applications; the first application bearing **I. A. No. 15437 of 2023** was filed under Section 151 of the CPC for condonation of delay of 16 days in filing of Replication to the written statement of Defendant/Respondent Nos. 1, 2 and 3 and the second application bearing **I.A. No. 15441 of 2023** was filed under Section 151 of the CPC for condonation of delay of 22 days in filing of Replication to the written statement of Defendant/Respondent Nos. 5 and 6.

E. The grounds for delay in filing the two replications, as stated in both applications, are similar. The Appellant submitted that delay was due to the summer vacation of the Court and the unavailability of his counsel. Further, it was submitted that the Appellant is a senior citizen and has multiple age-related ailments.

F. The learned Single Judge *vide* the impugned Order dismissed both the applications.

### **APPELLANT'S CONTENTIONS:**

5. Learned counsel for the Appellant would first refer to Rule 5, Chapter VII of the **Delhi High Court (Original Side) Rules, 2018**<sup>3</sup>, which reads as follows:

***"5. Replication.-** The replication, if any, shall be filed within 30 days of receipt of the written statement. If the Court is satisfied that the plaintiff was prevented by sufficient cause for exceptional and unavoidable reasons in filing the replication within 30 days, it may extend the time for filing the same by a further period not exceeding 15 days but not thereafter. For such extension, the plaintiff shall be burdened with costs, as deemed appropriate. The replication shall not be taken on record, unless such costs have been paid/ deposited. In case no*

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<sup>3</sup> Rules, 2018



*replication is filed within the extended time also, the Registrar shall forthwith place the matter for appropriate orders before the Court. An advance copy of the replication together with legible copies of all documents in possession and power of plaintiff, that it seeks to file along with the replication, shall be served on the defendant and the replication together with the said documents shall not be accepted unless it contains an endorsement of service signed by the defendant/ his Advocate.”*

6. Learned counsel for the Appellant states that as per said Rule 5, the prescribed period for filing that replication is 30 days, beyond which the condonable period within which the replication may be filed is “a further period not exceeding 15 days but not thereafter”.

7. Learned counsel for the Appellant would thereafter refer to Rule 6, Chapter I of the Rules, 2018, which reads as under:-

*“6. **Period how calculated.**—Where a particular number of days are prescribed by these Rules or by or under any other law, or is fixed by the Court for doing any act, the starting day from which the said period is to be reckoned shall be excluded, and if the last day expires on a day when the office of the Court is closed for the day or a part thereof, that day and any succeeding day(s) on which the Court remains closed for the day or a part thereof, shall also be excluded.”*

8. Learned counsel for the Appellant also refers to the definition of “the Court”, which is set out in Rule 4(e), Chapter I of the Rules, 2018, as well as “Registry”, which is set out in Rule 4(m), Chapter I of the Rules, 2018.

9. The primary contention based on the afore-extracted/stated provisions is that, if limitation expires on a day when the Court is closed, then that day and any succeeding dates on which the Court remains closed for the day or a part thereof are to be excluded.

10. He would submit that, given the factual scenario in the present case, since the last day for filing of an application expired in the midst of the Court vacations (a term now referred to by the Hon’ble



Supreme Court as “Partial Working days”), the entire period of the vacations being days when the Court was closed would have to be excluded and the period for reckoning the condonable period would commence from the first working day after the reopening of the Court.

11. It is the contention of the learned counsel for the Appellant that the said Rule 6, Chapter I of the Rules, 2018 does not make any distinction between prescribed period and condonable period and, therefore, even in respect of the condonable period, Rule 6, Chapter I of the Rules, 2018 would have to apply and the entire period during which the Court was not working would need to be excluded from the calculation of the period of limitation.

12. Learned counsel for the Appellant, in support of his contention, would rely upon paragraph Nos. 16 and 17 of Order dated 03.07.2025 in CS(OS) 243/2021 titled as *Anil Jain v. Paritosh Jain*, which reads as under:

*“16. Read in conjunction with the facts, Rule 6 squarely applies to the present scenario. The expiry of the 15th and final condonable day on a Court holiday brings the case within the protective ambit of Rule 6. Accordingly, the replication filed on 15.04.2024, the immediate next working day, cannot be considered belated. The language of Rule 6 does not draw a distinction between the prescribed and condonable periods, and once the Court is closed on the last day of any period prescribed, or fixed by law or the Court, the benefit of exclusion applies. Hence, the replication filed by defendant Nos. 1 and 2 is within the permissible time limit.*

*17. As regards the contention advanced by learned counsel for defendant Nos. 1 and 2, relying on the decision in **Rajpath Contractors & Engineers Ltd.** to argue that the benefit of Section 4 of the Act applies only to the prescribed period and not to the condonable period, it is correct that the Supreme Court adopted such a view. However, it is significant to note that the said decision arose in the context of an arbitration proceeding under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as ‘Arbitration Act’). The Court therein examined the interface between Section 4 of the Act and the statutory timelines prescribed under the Arbitration Act, and, while affirming the strict*



*separation between the prescribed and condonable periods, also acknowledged that such a rigid construction effectively precluded any relief in light of the legislative intent for expedition embedded in the Arbitration Act. The observations of the Supreme Court must, therefore, be understood within the specific statutory framework governing arbitral disputes, which prioritizes finality and speed over procedural flexibility, and such interpretation should not be dovetailed with matters of purely civil nature.”*

*(Emphasis Supplied)*

13. It is also apposite to refer to Section 4 of the **Limitation Act, 1963**<sup>4</sup>, which reads as follows:

*“4. Expiry of prescribed period when court is closed.—Where the prescribed period for any suit, appeal or application expires on a day when the court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the court re-opens.*

*Explanation.—A court shall be deemed to be closed on any day within the meaning of this section if during any part of its normal working hours it remains closed on that day.”*

14. Learned counsel for the Appellant would strenuously argue that the Co-ordinate Bench of this Court in the case of **Manhar Sabharwal v. High Court of Delhi**<sup>5</sup>, has categorically held that under Section 129 of the CPC, High Courts are empowered to frame their own rules of procedure, and such rules would prevail over the generic provisions of the CPC to the extent of any inconsistency. He would, thus, submit that the provisions of Rule 6, Chapter I of the Rules, 2018 reads in a manner, such as to suggest that if the last day of the reckonable period expires on the day when the Court is closed, then the entire period of the vacation would need to be excluded from the calculation of limitation.

### **RESPONDENTS' CONTENTIONS:**

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<sup>4</sup> Limitation Act

<sup>5</sup> 2024 SCC OnLine Del 5945



15. *Per contra*, the learned counsel for the Respondents would state that the said argument is “preposterous” as it goes against the fundamental concept of limitation and the manner in which it is to be calculated. Learned counsel for the Respondents refers to the applications filed for condonation of delay in filing of the replications and states that the case as sought to be set up in appeal is not maintainable, given what is contended in the said applications, even as per the calculation of the Appellants herein.

16. Learned counsel for the Respondents would state that the period of Court Vacations is not a period where the Court is not functioning insofar as the Registry is concerned, and what needs to be considered, especially for the purposes of filing, is the factum of the functioning of the Registry of the Court.

17. He further relies upon the judgment of the Hon’ble Supreme Court in *Hukumdev Narain Yadav v. Lalit Narain Mishra*<sup>6</sup>, and its paragraph No. 6 thereof, to contend that the judicial sittings of the Court may not be transpiring, but the offices of the Court remain open for presentation of the pleadings. The Court is, therefore, open for the purpose of presentation of pleadings even though the Judge is not engaged in judicial functions or present in the Court itself. Paragraph No. 6 of the said judgement reads as follows:

*“6. A long course of decisions have held that a Court is not closed notwithstanding the fact that Judges do not sit on any day if otherwise the Court is open on that day. Harries, C.J., during the course of the arguments in Lachmeshwar Prasad Shukul v. Girdhari Lal Chaudhuri [AIR 1939 Pat 667 : 185 IC 353 : ILR 19 Pat 123] observed that “Saturday” is a Court day although the Judges are not sitting on that day. The learned Chief Justice and Fazl Ali, J., as he then was, (Agarwala, J., dissenting) went to the extent of holding that even in the vacations the Court is not closed and money can be*

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<sup>6</sup> (1974) 2 SCC 133



deposited. Turner, C.J., speaking for himself, Kernan, Kindersley and Muttusami Ayyar, JJ., (Innes, J., dissenting) observed in *Nachiyappa Mudali v. Ayyasami Ayyar*: [ILR (1882) 5 Mad 189, 192]

“The judicial sittings of the Court may be adjourned; but the offices of the Court may still remain open for the presentation of pleadings. The Court may be open for this purpose although the Judge is not engaged in judicial functions or is not present in the Court-house or in the place where the Court is held.”

*A Bench of the Madras High Court in In re Thokkudubivyanu Immaniyelu [AIR 1948 Mad 521 : (1948) 1 MLJ 49] dealt with a similar practice which is followed by all High Courts and this Court for the summer vacation when the Courts close. The notifications in respect thereof specify a period between Monday to Friday both days inclusive as the vacation. The Court reopens on a Saturday, but judicial work starts only on the following Monday. It was held that the first day of the Court was a Saturday which was the day for receiving papers though the Judges actually sat for judicial work on Monday, as such an application, for which the prescribed period of limitation expired on Saturday the 5th when the Court was open and was not filed on that day, but on Monday the 7th, was held to be barred. See also Dwarka Prasad v. Union of India; [AIR 1954 Pat 284 : ILR 1954 Pat 176] and Sajjansingh v. Bhogilal Pandya [AIR 1958 Raj 307 : ILR (1958) 8 Raj 912].”*

*(Emphasis supplied)*

18. Learned counsel further relies upon the judgment of the Hon’ble Supreme Court in *Ajay Gupta v. Raju*<sup>7</sup>, and paragraph No. 2 thereof, wherein again it is reiterated that simply because the Court is closed for vacation, it is not always a holiday for the Registry.

19. Learned counsel for other Respondents would also rely upon the Notification No. 103/I-G-4/Genl.-I/DHC of the High Court of Delhi dated 28.10.2022, in respect of Vacations and contend that the same does not denote that the Registry would be shut during the period of vacations.

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<sup>7</sup> (2016) 14 SCC 314



## ANALYSIS

20. We have heard the counsel for the parties. In our view, there is no error in the Order dated 06.05.2025 of the learned Single Judge.

The relevant portion of the Impugned Order is as follows:

**“I.A. 15437/2023 (for condonation of delay)**

1. This is an application filed by the plaintiff seeking condonation of delay of 16 days in filing the replication to the written statement of defendant nos. 1 and 3.
2. Although, the application prays for condonation of 16 days’ delay, what the applicant intends to plead is, that the delay is of 16 days beyond the statutorily permissible period of 45 days. The applicant is therefore, seeking condonation of delay of 61 days and not 16 days.
3. In view of the judgement of the Division Bench in **Ram Swaroop Lugani & Another v. Nirmal Lugani** [2020 SCC OnLine Del 1353 at paras 21 to 25], and in view of the Rule 5 Chapter VII, Delhi High Court (Original Side) Rules, 2018, the relief sought is not permissible and barred in law.
4. Even otherwise, the grounds set out in the application do not make out any sufficient ground for condonation of delay.
5. The application stands dismissed.

**I.A. 15441/2023 (for condonation of delay)**

6. This is an application filed by the plaintiff seeking condonation of delay of 22 days in filing of replication to the written statement of defendant nos. 5 and 6.
7. Although the application prays for condonation of 22 days’ delay, what the applicant intends to plead is, that the delay is of 22 days beyond the statutorily permissible period of 55 days. The applicant is therefore, seeking condonation of delay of 77 days and not 22 days as pleaded.
8. In view of the judgement of the Division Bench in **Ram Swaroop Lugani** (supra) and in view of the Rule 5 Chapter VII, Delhi High Court (Original Side) Rules, 2018, the relief sought is not permissible and barred in law.
9. Even otherwise, the grounds set out in the application do not make out sufficient grounds for condonation of delay.
10. The application stands dismissed.”

21. The replications themselves came to be filed on 17.07.2023. As per the statutory limitation, the replication to the written statement on behalf of Respondent Nos. 5 and 6 was supposed to be filed by 08.06.2023, and the replication to the written statement on behalf of



Respondent Nos. 1, 2 and 3 was supposed to be filed by 14.06.2023. However, the replications along with their respective applications for condonation of delay came to be filed only on 17.07.2023. For the sake of convenience, a tabular representation of the timelines with respect to both the IAs is as follows:

<b>I. A. No. 15437 of 2023-</b> for condonation of delay of 16 days in filing replication to written statement of Defendant/ Respondent Nos. 1 to 3	
Commencement of the limitation	15.05.2023
Expiry of 30-Day Period under Rule 5, Chapter VII	14.06.2023
Expiry of Condonable Period of 15 days, which commenced after the expiry of Prescribed Period under Rule 5, Chapter VII	29.06.2023
<b>I. A. No. 15441 of 2023-</b> for condonation of delay of 22 days in filing replication to written statement of Defendant/ Respondent Nos. 5 and 6	
Commencement of the limitation period	09.05.2023
Expiry of 30-Day Period under Rule 5, Chapter VII	08.06.2023
Expiry of Condonable Period of 15 days, which commenced after the expiry of Prescribed Period under Rule 5, Chapter VII	23.06.2023
<b>Both IAs admittedly filed on</b>	<b>17.07.2023</b>

22. Rule 6, Chapter I of the Rules, 2018 is not a rule which relates to reckoning of the period of exclusion from when the “Court” is



closed but for reckoning of the period to be excluded from when the “*office of the Court is closed*”. The fundamental fallacy of the Appellant’s argument lies in the attempt to ignore the words “*office of the*”.

23. The office of the Court can mean nothing but the Registry of that Court, and the same is also clarified from the extracted paragraph No. 6 of the judgment of the Hon’ble Supreme Court in ***Hukumdev Narain Yadav (supra)***.

24. We are of the opinion that the Order of the learned Single Judge in ***Anil Jain (supra)*** stipulates that it would also regulate the manner in which condonable period would be brought within the protective ambit of Rule 6, Chapter I of Rules, 2018. The said Order holds that it is due to this protective ambit that any pleadings sought to be filed could have been so filed, on the immediate working day upon the reopening of the Courts. The said Judgment, in our opinion, militates against the view sought to be canvassed by the Appellant herein.

25. We are of the opinion that it would be necessary that Section 4 of the Limitation Act, 1963 would need to be read harmoniously with the above-referred rules of the Delhi High Court (Original Side) Rules, 2018.

26. The result of such a harmonious reading would suggest that, in the event the condonable period of limitation expires during the vacations, the same would be permitted to have the benefit of being filed on the first re-opening day post-vacations. If the arguments suggested by the Appellant are accepted, it would not only constitute a rewriting of the statute of limitation, but it would also encourage indolence on part of such parties who are not vigilant about exercising their rights. Such an interpretation is neither warranted nor desirable.



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27. We are also of the view that, as rightly pointed out by the learned counsel for Respondents, it was the Appellant's own understanding that the period of vacations of the Court did not bring to a halt the running of the clock, and which is the reason why the applications bearing I. A. No. 15437 of 2023 and I. A. No. 15441 of 2023 expressly states that there was a delay of 16 and 22 days in the filing of the replication.

28. In view of the afore-stated, there is no merit in the appeal and the same is rejected.

29. The appeal, with all pending application(s), if any, is disposed of. No order as to costs.

**ANIL KSHETARPAL, J.**

**HARISH VAIDYANATHAN SHANKAR, J.**

**JULY 29, 2025/v/er**