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

Date of Decision: 16th April, 2026

+ CM(M) 832/2026

DEVI PRASAD THROUGH ATTORNEY SANDEEP SONI

.....Petitioner

Through: Mr. Kustubh Singh and Ms. Sunakshi
Gupta Laroyia, Advocates.

versus

DWARIKA PRASAD & ORS.

.....Respondents

Through: Ms. Himani Aggarwal, Advocate for
R-4.

CORAM:

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER (Oral)

Rajneesh Kumar Gupta, J.

1. This hearing has been conducted through hybrid mode.

CM APPL. 24475/2026 (for delay in re-filing)

2. This is an application filed by the petitioner under Section 151 of the Code of Civil Procedure, 1908 seeking condonation of delay in re-filing the present petition.

3. For the grounds and reasons stated therein, the application is allowed. The delay of 13 days in re-filing the present petition is condoned.

4. Accordingly, the application is disposed of.

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5. The present petition has been filed on behalf of the petitioner under Article 227 of the Constitution of India, 1950, assailing the order dated 18th February, 2026, passed by the learned Trial Court in CS DJ No. 269/2025,



whereby the petitioner/plaintiff has been granted the opportunity to file the list of witnesses along with the evidence-affidavit, subject to cost of Rs. 5,000/- to be paid to each of the respondents/defendants.

6. Heard. Record perused.

7. Learned counsel for the petitioner has argued that the petitioner has filed an application under Order XII Rule 6 of the CPC. The delay, if any, in filing the list of witnesses is on account of moving of this application in the trial Court and therefore, the costs imposed upon the petitioner is unreasonable.

8. Issues have been framed in the suit on 02nd December, 2025, and both the parties were directed to file the list of witnesses within a period of fifteen (15) days in compliance of order XVI Rule 1 of the Code of Civil Procedure, 1908 ('CPC') and also to file an affidavit in evidence of plaintiff's witnesses within four (04) weeks. The application under Order XII Rule 6 of the CPC has been moved on behalf of petitioner/ plaintiff on 18th February, 2026.

9. The application under order XII Rule 6 of CPC has been moved after the expiry of the period to file list of witnesses and affidavit in evidence, as granted by the learned Trial Court at the time of framing of issues. On account of this delay on the part of the petitioner, the trial Court has imposed cost upon the petitioner, so there is no infirmity in the impugned order and the same is upheld. Accordingly, the petition is dismissed as being devoid of any merits. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

APRIL 16, 2026/nd/lisk