



2026:DHC:3685



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

Date of Decision: 30th April, 2026

+ CM(M) 990/2026

AMULAYA CHAWLA & ANR.

.....Petitioners

Through: Dr. Pankaj Garg, Mr. Yaksh Garg, Ms. Yashna Ahuja and Ms. Muskaan Chawla, Advocates.

versus

ANIL KUMAR GUPTA

.....Respondent

Through: None.

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. 29096/2026 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

CM(M) 990/2026 & CM APPL. 29095/2026 (for stay)

3. This is a petition filed under Article 227 of the Constitution of India, 1950 assailing the order dated 07th March, 2026 passed by the learned Trial Court in CS SCJ No. 2450/2024, whereby an application filed by the petitioner/defendant under Order VIII Rule 1 read with Section 151 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') seeking condonation of delay in filing the written statement, has been dismissed.

4. Heard. Record perused.



5. Learned Counsel for the petitioner has argued that the learned Trial Court has passed the impugned order on the basis of surmises and conjectures and the same is against the facts and law. It is further submitted that the denial of opportunity to file the written statement has resulted in grave prejudice to the petitioner. The delay in filing the written statement was not deliberate but occurred on account of *bona fide* prosecution of an application under Order VII Rule 11 CPC. Learned Counsel for the petitioner, therefore, prays that as there is sufficient reason for the delay in filing the written statement, so the delay be condoned and the written statement be taken on record.

6. Order VIII Rule 1 of CPC reads as under:

*“1. **Written Statement.**—The Defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:*

Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons.”

7. In the case of ***Gautam Bhowmick v Prem Chand 167 (2010) DLT 274***, a coordinate bench of this Court observed as under:

“7. It had become a tendency of the defendants to prolong the trial of the case and to drag the proceedings as long as possible, since prolonging of the proceedings itself results in defeating justice. In order to curb this tendency, amendments were made in Civil Procedure Code and the Supreme Court after considering the legal position took a view that while the written statement should be filed within 30 days, extension of time for filing written statement beyond 30 days but within 90 days should be given if reasonable grounds are shown by the defendant and the Court is satisfied with those grounds. Beyond 90 days, the Court is not powerless in extending the time for filing written statement but this



discretion must be exercised only in exceptional cases so that the procedure does not defeat the substantive justice.”

8. The relevant portion of the impugned order dated 07th March, 2026 reads as follows:

*“In the present matter, there is a delay of approximately 300 days in filing the WS. As noted above, the only reason mentioned in the application for condonation of delay is that the defendants did not file the WS since doing so would have amounted to admission and waiver of their legal right to challenge the maintainability of the present suit, and that the period to file the WS only commences after dismissal of the application u/o 7 Rule 11 CPC. However, the said pleaded ground is not a cogent ground, since the time spent in pursuing the application u/o 7 Rule 11 CPC does not extend the time period for filing WS. It was specifically noted by the Hon’ble Supreme Court of India in **SCG Contracts India Pvt. Ltd. v. K.S. Chamankar Infrastructure Pvt. Ltd**, Civil Appeal No. 1638/2019, that the Order 7 Rule 11 CPC proceedings are independent of the filing of a WS, and that the liberty to file an application for rejection u/o 7 Rule 11 CPC cannot be made as a ruse fore retrieving the lost opportunity to file the WS.*

Accordingly, the ground mentioned in the application seeking condonation of delay is not a cogent ground. There has been an extraordinary delay of approximately 300 days in filing the WS, and in absence of any cogent ground/health reasons, I am not inclined to exercise my discretionary power to condone the delay in filing of the WS.

Accordingly, the application seeking condonation of delay in filing the WS stands dismissed.

The WS is accordingly not taken on record and the defence of the defendants is struck off.”

9. The petitioner/defendant was served with summons of the suit on 18th January, 2025. Thereafter, instead of filing the written statement, the petitioner chose to file an application under Order VII Rule 11 of CPC on 24th



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February, 2025, which was dismissed on 9th September, 2025. The written statement was e-filed on 20th December, 2025. Thus, there is a delay of approximately 300 days in filing the written statement.

10. Keeping in view the facts and circumstances of the case, this Court is of the opinion as the petitioner was represented by Counsel and had pursued his application under Order VII Rule 11 CPC, so this Court does not find any infirmity in the impugned order as the petitioner has failed to make out any exceptional case for condonation of delay of approximately 300 days in filing the written statement. The impugned order is upheld as it is a well reasoned order passed in accordance with law.

11. The petition is dismissed as being devoid of any merits. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

APRIL 30, 2026/nd/ik