



2025:DHC:10123-DB



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

Date of Decision: 17.11.2025

+ FAO(OS) 142/2025, CM APPL. 71733/2025, CM APPL. 71734/2025, CM APPL. 71735/2025
ASHOK KUMAR KAUSHIK & ANR.Appellants

Through: Mr. Praveen Kumar, Mr. Suman Raj, Mr. Rishi Raj, Adv.

versus

MAHIPAL SINGH & ORS.Respondents

Through: Ms. Shobhana Takiar, Mr. Shivam Takiar, Mr. Prateek Dhir, Mr. Kuljeet Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T (O R A L)

ANIL KSHETARPAL, J.

1. Through the present Appeal, the Appellants assail the correctness of the order dated 07.08.2025 [hereinafter referred to as 'Impugned Order'] passed by the learned Single Judge in CS(OS) 369/2020, whereby the learned Single Judge declined to condone the delay in filing the Replication by the Plaintiffs (Respondents herein) beyond the period of 45 days permissible under the Delhi High Court (Original Side) Rules, 2018 [hereinafter referred to as "the Rules"]. The learned Single Judge also directed that certain documents filed by the Defendants (Appellants herein) after filing of the Written Statement be ignored/taken off the record.



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2. The factual matrix and chronology material for the decision of this Appeal are not in dispute and may be recorded succinctly:

i. The Plaintiffs instituted CS(OS) 369/2020 seeking permanent and mandatory injunctions in October 2020.

ii. The Defendants filed their Written Statement, without complete/entire documents on 21.12.2020.

iii. The Defendants placed certain documents on record and served copies upon the Plaintiffs thereafter, the service/filing of those documents is recorded on 25.01.2021 (with further reference to 28.01.2021 in the file).

iv. The Plaintiffs filed their Replication on 09.02.2021. The Plaintiffs contended that the period for filing Replication ought to be computed from the date when the Plaintiffs were furnished with the documents relied upon by the Defendants, i.e. 25.01.2021 and therefore the Replication filed on 09.02.2021 was within the permissible time computed from that date. The Defendants, however, contended that the period for filing Replication must be computed from the date of service/filing of the Written Statement (21.12.2020), and that the Replication filed on 09.02.2021 was thus time-barred.

3. The learned Single Judge held that the scheme of the Rules requires the Defendant to file a comprehensive Written Statement together with all documents relied upon and to serve the same on the Plaintiff in advance; that the Replication is to be filed within the period specified from the date when such comprehensive Written



Statement (i.e., the written pleading together with its supporting documents) has been made available to the Plaintiff; and that, accordingly, documents filed by the Defendants after the Written Statement (and after the initial computation of the Replication period) could not be relied upon and had to be ignored.

4. Before this Court, learned counsel representing the Appellants contends that Rule 5 uses the narrower expression “*written statement*” and not the expression “*written statement together with said documents*” as stipulated under Rule 2 and that, therefore, the Replication period prescribed under Rule 5 must be computed from the date of filing/service of the Written Statement (21.12.2020) irrespective of whether documents were supplied thereafter. According to learned counsel, confining the computation to the date when the complete set of documents was served is unnecessary and unduly restrictive of the Defendant’s procedural rights and is inconsistent with the literal wording of Rule 5.

5. This Court has carefully considered the submissions advanced by learned counsel representing the parties. At this stage, it would be apposite to notice the relevant provisions of the Rules that govern the timelines for filing the Written Statement and the Replication. Rule 2 and Rule 5, respectively, read as under -

“2. Procedure when defendant appears.—*If the defendant appears personally or through an Advocate before or on the day fixed for his appearance in the writ of summons:—*

- (i) *where the summons is for appearance and for filing written statement, the written statement shall not be taken on record, unless filed within 30 days of the date of such service or within the time provided by these Rules, the Code or the Commercial Courts Act, as applicable. An advance copy of the written*



statement, together with legible copies of all documents in possession and power of defendant, shall be served on plaintiff, and the written statement together with said documents shall not be accepted by the Registry, unless it contains an endorsement of service signed by such party or his Advocate.

- (ii) *the Registrar shall mark the documents produced by parties for purpose of identification, and after comparing the copies with their respective originals, if they are found correct, certify them to be so and return the original(s) to the concerned party.*

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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 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."*

The process of interpreting procedural rules is well settled. Procedural rules, though to be construed on their terms, must be read purposively and in the context of the scheme and object of the Rules as a whole. Procedural provisions meant to promote orderly, fair and efficient litigation must not be rendered meaningless by a narrow literalism that defeats their object. Conversely, a literal reading that gives effect to the manifest design of the Rules should not be lightly discarded.

6. A holistic and purposive reading of Rule 2 and Rule 5 makes the structure of the procedural scheme clear. Rule 2 obligates the Defendant to file a comprehensive Written Statement together with all



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documents in its power and possession within 30 days, extendable for reasons to be recorded up to a maximum of 120 days, inclusive of the initial 30 days. It also expressly mandates that the Written Statement “together with said documents” shall not be accepted by the Registry unless an endorsement of prior service on the Plaintiff is furnished. This requirement is not a mere formality but an essential safeguard to ensure that the Plaintiff receives the entire defence, both the pleading and all relied-upon documents, at a single stage. In this context, the expression ‘written statement’ in Rule 5 cannot be read in isolation so as to exclude documents; the right of the Plaintiff to file a Replication within 30 days, extendable by a further 15 days upon showing exceptional and unavoidable cause, is therefore triggered only upon receipt of the complete Written Statement contemplated under Rule 2.

7. Accepting the Appellants’ contention that the replication period must be computed from the date of filing a skeletal written statement without accompanying documents would defeat the purpose of the Rules. Such an interpretation would enable a Defendant to commence the replication clock by filing an incomplete Written Statement and then furnish documents later, thereby depriving the Plaintiff of a fair and meaningful opportunity to meet the defence in its complete form. The Impugned Order correctly reflects a valid concern to prevent such prejudice. If the Plaintiff is served only with a bare pleading but the documents arrive subsequently, the Plaintiff would be denied an effective opportunity to incorporate responses to those documents within the strict statutory period. That period comprises a mandatory 30 days plus a condonable 15 days, but no more, thereby indicating



that while the Rules recognise limited flexibility to avoid undue hardship, they otherwise adopt a strict and time-bound regime to ensure expedition.

8. It is well settled that procedural rules, while mandatory in structure, vest courts with limited discretion to permit belated filings if sufficient cause is shown. However, such discretion must be exercised consistently with the twin objectives of a fair trial and efficient disposal of litigation. In the present case, there is no material to indicate that the learned Single Judge misdirected himself in law. The learned Single Judge duly considered the chronology, the filings, and the submissions on both sides, and found that the documents relied upon by the Defendants had indisputably been filed after the Written Statement, and further, that the Replication was filed beyond the outer limit of 30 + 15 days contemplated under Rule 5. The Impugned Order, therefore, flows from a correct construction of the Rules and their application to the facts.

9. For completeness, it must also be observed that Rule 2 casts a specific burden on the Defendant to serve an advance copy of the Written Statement *together with* legible copies of all documents in his power and possession and to obtain an endorsement of service. This procedural obligation ensures that the Written Statement filed with the Registry is, in substance and effect, identical to the Written Statement served upon the Plaintiff. Where a Defendant does not comply with this mandate and instead seeks to introduce documents at a later stage, prejudice to the Plaintiff is not merely possible but, in fact, likely. The learned Single Judge's conclusion, that documents not filed as



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mandated could not be relied upon, and that a replication filed beyond the non-extendable statutory period could not be taken on record, accords fully with the scheme of the Rules and preserves the fairness of the process. The Rules do not contemplate piecemeal filing of documents after the written statement has been filed.

10. The conclusion drawn by the learned Single Judge, therefore, appears to be legally sound and consistent with the express mandate of Rule 2, which requires the Written Statement along with the documents to be filed and served together. No infirmity is found in the view taken by the learned Single Judge.

11. In view of the above discussion, this Court finds no reason to interfere with the Impugned Order.

12. The present Appeal, along with the pending applications, is accordingly dismissed.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 17, 2025

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