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

Date of decision: 27th FEBRUARY, 2026

IN THE MATTER OF:

\+ **CS(OS) 725/2022 & I.A. 19377/2022, I.A. 19378/2022, I.A. 19382/2022, I.A. 6448/2024, I.A. 5571/2026**

JYOTI SUBBA & ANR. .....Plaintiffs

Through: Mr. Kirtiman Singh Sr. Adv., Mr. Kuriakose Varghese, Mr. V. Shyamohan, Mr. Akshat Gogna, Ms. Isha Ghai, Ms. Aditi Todaria, Ms. Riya Sara Renchen, Ms. Cathy Ruby Thomas, Mr. Ritwik Saha and Mr. Maulik Khurana, Advocates

versus

MAHESH AGGARWAL & ANR .....Defendants

Through: Mr. Anurag Ahluwalia, Sr. Adv, Mr. Aditya Singh (Adv), Mr. Vishal Maan (Adv) and Mr. Pankaj Nayal (Adv) for D-1
Mr. Hemant Kumar Yadav, Advocate for D-2

**CORAM:**
**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**JUDGMENT**

**I.A. 31400/2025**

1. The present application under Order VIII Rule 1 read with Section 151 of the CPC has been filed by the Defendant No.2 seeking condonation of delay of 126 days in filing the written statement.

2. Perusal of the Order Sheets reveals *vide* Order dated 24.07.2025, this

Court had allowed an application being I.A. 45803/2024, whereby Mrs. Minu Subba, daughter of Late Shri M.K. Subba, was sought to be impleaded as Defendant No.2 in the present Suit and as a natural course, the Defendant No. 2 was directed to file the written statement within 30 days from the date of the said Order, being the time limit stipulated under the Delhi High Court (Original Side) Rules, 2018 ["**DHC OS Rules**"].

3. Thus, taking 24.07.2025 as the *terminus a quo* for calculating the limitation period, the written statement on behalf of the Defendant No. 2 ought to have been filed on or before 23.08.2025. Material on record indicates that the written statement was filed on 27.11.2025, i.e., beyond the maximum permissible limit of 120 days, which expired on 21.11.2025.

4. Along with the written statement, an application seeking condonation of delay of 126 days in filing the written statement, being I.A. No. 31400/2025, was also filed by the Defendant No. 2. The entire Application is being reproduced as under:-

> *"1. That the above-captioned suit is pending adjudication before this Hon'ble Court.*
>
> *2. That vide order dated 24.07.2025 I.A. 45803/2024, passed by this Hon'ble Court under Order I Rule 10 CPC, the present applicant, Mrs. Minu Subba, daughter of late Shri M.K. Subba, was impleaded as Defendant No.2 in the present suit and directed to file written statement within 30 days.*
>
> *3. That pursuant to the said order, the amended memo of parties was directed to be filed and the matter was adjourned for 24.11.2025.*
>
> *4. That the applicant/Defendant No.2 was facing certain personal difficulties and economic constraints, due to which she was unable to immediately engage counsel for*

*preparation and filing of her written statement.*

*5. That only on 30.10.2025, the applicant was able to engage a new counsel to represent her in the matter. The newly engaged counsel required reasonable time to study the case record, examine the pleadings, and prepare a comprehensive written statement in defence of the applicant.*

*6. That consequently, the written statement could be finalized and filed on 27.11.2025, resulting in a delay of 126 days beyond the prescribed period under Order VIII Rule 1 CPC.*

*7. That the delay in filing the written statement is neither deliberate nor intentional, but solely attributable to the genuine difficulties faced by the applicant in arranging legal representation and the time required by the newly engaged counsel to prepare the defence.*

*8. That no prejudice shall be caused to the plaintiffs if the delay is condoned, whereas grave prejudice shall be caused to the applicant if her defence is shut out on technical grounds.*

*9. That it is settled law that procedural provisions are handmaids of justice, and this Hon'ble Court has ample power to condone delay in the interest of justice. That no prejudice will be caused to the Petitioner if the present application is allowed; however, grave injustice will be caused to the Applicant if the same is denied.*

*PRAYER*

*In view of the foregoing facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be pleased to:*

> *A. Condone the delay of 126 days in filing the written statement on behalf of Defendant*

*No.2; and*

*B. Pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

5. Rules 2 and 4 of Chapter VII of the DHC OS Rules prescribes that the maximum time limit within which the written statement has to be filed. Written statement along with the affidavit of Admission/Denial of the documents has to be filed within a period of 30 days, however, a gracious period of 90 days is also given to file the written statement along with the affidavit of Admission/Denial of the documents, provided sufficient cause is given for condonation of delay.

6. The issue as to whether there is power vested with the Court to condone the delay beyond the maximum period prescribed in Chapter VII of the DHC OS Rules is no longer *res integra*. A Division Bench of this Court in Ram Sarup Lugani v. Nirmal Lugani, **2020 SCC OnLine Del 1353**, has observed as under:

> *""**14**. The term "The Court" and "Registrar" have been defined in Rule 4 that is a part of Chapter I of the Rules. On a reading of Rule 5 it is clear that the replication, if any, should be filed within a period of 30 days from the date of receipt of the written statement. The word "shall" used in the said Rule postulates that the replication must be filed within 30 days of the receipt of the written statement. The Registrar does not have the power to condone any delay beyond 30 days. The permission to condone the delay beyond the period of 30 days, lies with the court. If the court is satisfied that the plaintiff was prevented by sufficient cause or for exceptional and unavoidable reasons from filing the replication within 30 days, it may extend the time for filing the same by a further period not exceeding 15*

*days with a suffix appended to the Rule stating, "but not thereafter". The phrase "but not thereafter" mentioned in the Rule indicates that the intention of the rule making authority was not to permit any replication to be entertained beyond a total period of 45 days. If any other interpretation is given to the said Rule, then the words "but not thereafter", will become otiose.*

***15**. This is not the first time that the phrase, "but not thereafter" have been used in the statute. The said preemptory words have been used in other provisions that have come up for interpretation before the Supreme Court. In Union of India v. Popular Construction Co., reported as (2001) 8 SCC 470, the words "but not thereafter" were used in relation to the power of the court to condone the delay in challenging the award beyond the period prescribed under Section 34 of the Arbitration and Conciliation Act, 1996 and the Supreme Court observed as below:—*

> *"12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are "but not thereafter" used in the proviso to sub-section (3). In our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase "but not thereafter" wholly otiose. No principle of interpretation would justify such a result.*
>
> *16. Furthermore, Section 34(1) itself provides that recourse to a court against an arbitral award may be made only by an application for setting aside*

*such award "in accordance with" sub-section (2) and sub-section (3). Sub-section (2) relates to grounds for setting aside an award and is not relevant for our purposes. But an application filed beyond the period mentioned in Section 34, sub-section (3) would not be an application "in accordance with" that sub-section. Consequently by virtue of Section 34(1), recourse to the court against an arbitral award cannot be made beyond the period prescribed. The importance of the period fixed under Section 34 is emphasised by the provisions of Section 36 which provide that*

> *"where the time for making an application to set aside the arbitral award under Section 34 has expired ... the award shall be enforced under the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the court".*

*This is a significant departure from the provisions of the Arbitration Act, 1940. Under the 1940 Act, after the time to set aside the award expired, the court was required to "proceed to pronounce judgment according to the award, and upon the judgment so pronounced a decree shall follow" (Section 17). Now the consequence of the time expiring under Section 34 of the 1996 Act is that the award becomes immediately enforceable without any further act of the court. If there were any residual doubt on the interpretation of the language used in Section 34, the scheme of the 1996 Act would resolve the issue in favour of curtailment of the court's powers by the exclusion of the operation of Section 5 of the Limitation Act." (emphasis supplied)*

***16**. In Singh Enterprises v. Commissioner of Central*

*Excise, Jamshedpur, reported as (2008) 3 SCC 70, on interpreting Section 35 of the Central Excise Act, which contains similar provisions, the Supreme Court has observed as under:*

> *"8. The Commissioner of Central Excise(appeals) as also the Tribunal being creatures of statute are not vested with jurisdiction to condone the delay beyond the permissible period provided under the statute. The period up to which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Limitation Act, 1963 (in short "the Limitation Act") can be available for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision of order. However, if the Commissioner is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days but in terms of the proviso further 30 days time can be granted by the appellate authority to entertain the appeal. The proviso to sub-section(1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only up to 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore*

*justified in holding that there was no power to condone the delay after the expiry of 30 days' period."(emphasis supplied)*

***17**. After referring to the above decision, in Commissioner of Customs and Central Excise v. Hongo India Private Limited, reported as (2009) 5 SCC 791, the Supreme Court went on to observe as under:*

> *"30. In the earlier part of our order, we have adverted to Chapter VI-A of the Act which provides for appeals and revisions to various authorities. Though Parliament has specifically provided an additional period of 30 days in the case of appeal to the Commissioner, it is silent about the number of days if there is sufficient cause in the case of an appeal to the Appellate Tribunal. Also an additional period of 90 days in the case of revision by the Central Government has been provided. However, in the case of an appeal to the High Court under Section 35-G and reference application to the High Court under Section 35-H, Parliament has provided only 180 days and no further period for filing an appeal and making reference to the High Court is mentioned in the Act.*
>
> *xxxx*
>
> *32. As pointed out earlier, the language used in Sections 35, 35-B, 35-EE, 35-G and 35-H makes the position clear that an appeal and reference to the High Court should be made within 180 days only from the date of communication of the decision or order. In other words, the language used in other provisions makes the position clear that the legislature intended the appellate*

*authority to entertain the appeal by condoning the delay only up to 30 days after expiry of 60 days which is the preliminary limitation period for preferring an appeal. In the absence of any clause condoning the delay by showing sufficient cause after the prescribed period, there is complete exclusion of Section 5 of the Limitation Act. The High Court was, therefore, justified in holding that there was no power to condone the delay after expiry of the prescribed period of 180 days.*

*xxxx*

*35. It was contended before us that the words "expressly excluded" would mean that there must be an express reference made in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. In this regard, we have to see the scheme of the special law which here in this case is the Central Excise Act. The nature of the remedy provided therein is such that the legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If, on an examination of the relevant provisions, it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our considered view, that even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the court to examine whether and to what extent, the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation. In other words, the applicability of the provisions*

*of the Limitation Act, therefore, is to be judged not from the terms of the Limitation Act but by the provisions of the Central Excise Act relating to filing of reference application to the High Court."*

*(emphasis supplied)*

***18**. We may also profitably refer to Bengal Chemists and Druggists Association v. Kalyan Chowdhury, reported as (2018) 3 SCC 41, where while examining the provisions of the Companies Act, the Supreme Court made the following observations:*

*"3. Before coming to the judgments of this Court, it is important to first set out Section 421(3) and Section 433 of the Act. These provisions read as follows:*

*"421. Appeal from orders of Tribunal.—(1)-(2) * * **

*(3) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order of the Tribunal is made available to the person aggrieved and shall be in such form, and accompanied by such fees, as may be prescribed:*

*Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of forty-five days from the date aforesaid, but within a further period not exceeding forty-five days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period. ...*

* * *

> *433. Limitation.—The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to proceedings or appeals before the Tribunal or the Appellate Tribunal, as the case may be."*

*4. A cursory reading of Section 421(3) makes it clear that the proviso provides a period of limitation different from that provided in the Limitation Act, and also provides a further period not exceeding 45 days only if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period. Section 433 obviously cannot come to the aid of the appellant because the provisions of the Limitation Act only apply "as far as may be". In a case like the present, where there is a special provision contained in Section 421(3) proviso, Section 5 of the Limitation Act obviously cannot apply.*

*5. Another very important aspect of the case is that 45 days is the period of limitation, and a further period not exceeding 45 days is provided only if sufficient cause is made out for filing the appeal within the extended period. According to us, this is a peremptory provision, which will otherwise be rendered completely ineffective, if we were to accept the argument of the learned counsel for the appellant. If we were to accept such argument, it would mean that notwithstanding that the further period of 45 days had elapsed, the Appellate Tribunal may, if the facts so warrant, condone the delay. This would be to render otiose the second time-limit of 45 days, which, as has been pointed out by us above, is peremptory in nature." (emphasis supplied)*

***19***. *In P. Radhabai v. P. Ashok Kumar, reported as (2019) 13 SCC 445, while construing the phrase, "but not thereafter" used in the proviso to sub section (3) of Section 34 of the Arbitration and Concilliation Act, the Supreme Court held thus:*

> *"32.4. The limitation provision in Section 34(3) also provides for condonation of delay. Unlike Section 5 of the Limitation Act, the delay can only be condoned for 30 days on showing sufficient cause. The crucial phrase "but not thereafter" reveals the legislative intent to fix an outer boundary period for challenging an award.*
>
> *xxxx*
>
> *33.2. The proviso to Section 34(3) enables a court to entertain an application to challenge an award after the three months' period is expired, but only within an additional period of thirty dates, "but not thereafter". The use of the phrase "but not thereafter" shows that the 120 days' period is the outer boundary for challenging an award. If Section 17 were to be applied, the outer boundary for challenging an award could go beyond 120 days. The phrase "but not thereafter" would be rendered redundant and otiose. This Court has consistently taken this view that the words "but not thereafter" in the proviso of Section 34(3) of the Arbitration Act are of a mandatory nature, and couched in negative terms, which leaves no room for doubt. (State of H.P. v. Himachal Techno Engineers [State of H.P. v. Himachal Techno Engineers, (2010) 12 SCC 210 : (2010) 4 SCC (Civ) 605], Assam Urban Water Supply & SewerageBoard v. Subash Projects & Mktg. Ltd. [Assam Urban Water Supply & Sewerage Board*

*v. Subash Projects & Mktg. Ltd., (2012) 2 SCC 624 : (2012) 1 SCC (Civ) 831] and Anilkumar Jinabhai Patel v. Pravinchandra Jinabhai Patel [Anilkumar Jinabhai Patel v. Pravinchandra Jinabhai Patel, (2018) 15 SCC 178 : (2019) 1 SCC (Civ) 141].)*

*34. In our view, the aforesaid inconsistencies with the language of Section 34(3) of the Arbitration Act tantamount to an "express exclusion" of Section 17 of the Limitation Act." (emphasis supplied)*

***20**. In New India Assurance Company Limited v. Hili Multipurpose Cold Storage Private Limited, reported as (2020) 5 SCC 757, the issue before the Supreme Court was whether Section 13(2)(a) of the Consumer Protection Act, 1986 that provides for the respondent/opposite party to file its response to the complaint within 30 days or such extended period, not extending 15 days, should be read as mandatory or directory i.e. whether the District Forum would have the power to extend the time for filing the response beyond the period of 15 days, in addition to 30 days. The Supreme Court has answered the said question in the following words:*

*"20. The legislature in its wisdom has provided for filing of complaint or appeals beyond the period specified under the relevant provisions of the Act and Regulations, if there is sufficient cause given by the party, which has to be to the satisfaction of the authority concerned. No such discretion has been provided for under Section 13(2)(a) of the Consumer Protection Act for filing a response to the complaint beyond the extended period of 45 days (30 days plus 15 days). Had the legislature not wanted to make such provision*

*mandatory but only directory, the provision for further extension of the period for filing the response beyond 45 days would have been provided, as has been provided for in the cases of filing of complaint and appeals. To carve out an exception in a specific provision of the statute is not within the jurisdiction of the courts, and if it is so done, it would amount to legislating or inserting a provision into the statute, which is not permissible.*

*xxxx*

*25. The contention of the learned counsel for the respondent is that by not leaving a discretion with the District Forum for extending the period of limitation for filing the response before it by the opposite party, grave injustice would be caused as there could be circumstances beyond the control of the opposite party because of which the opposite party may not be able to file the response within the period of 30 days or the extended period of 15 days. In our view, if the law so provides, the same has to be strictly complied, so as to achieve the object of the statute. It is well settled that law prevails over equity, as equity can only supplement the law, and not supplant it.*

*xxxx*

*27. It is thus settled law that where the provision of the Act is clear and unambiguous, it has no scope for any interpretation on equitable ground." (emphasis supplied)*

***21**. A conspectus of the decisions referred to above leaves no manner of doubt that where ever the phrase "but not thereafter" has been used in a provision for*

*setting a deadline, the intention of the legislature is to treat the same as a preemptory provision. Thus, if Rule 15 of the DHC Rules mandates filing of a replication within a period of 30 days reckoned from the date of receipt of the written statement, with an additional period of 15 days provided and that too only if the court is satisfied that the plaintiff has been able to demonstrate that it was prevented to do so by sufficient cause or for exceptional and unavoidable reasons, can the time for filing the replication be extended for a further period not exceeding 15 days in any event, with costs imposed on the plaintiff. The critical phrase "but not thereafter" used in Rule 15 must be understood to mean that even the court cannot extend the period for filing the replication beyond the outer limit of 45 days provided in the DHC Rules. Upon expiry of the said period, the plaintiff's right to file the replication would stand extinguished. Any other meaning sought to be bestowed on the above provision, would make the words "but not thereafter", inconsequential.*

***22**. The next contention of Mr. Mehta that the words "the Registrar shall forthwith place the matter for appropriate orders before the court" used in Rule 5 of the DHC Rules indicates that the court would still have the power to accept a replication filed beyond a period of 45 days, is also untenable. The Supreme Court has emphasized that the answer to the problem as to whether a statutory provision is mandatory or is directory in nature, lies in the intention of the law maker, as expressed in the law itself. The words "replication, if any, shall be filed within 30 days of the receipt of the written statement" and further, the words "further period not exceeding 15 days, but not thereafter" used in Rule 5 will lose its entire meaning if we accept the submission made on behalf of the appellants that even if the timeline for filing the replication cannot be extended by the Registrar, there*

*is no such embargo placed on the court.*

***23**. The court must start with the assumption that every word used in a statute, has been well thought out and inserted with a specific purpose and ordinarily, the court must not deviate from what is expressly stated therein. The period granted for filing the replication under Rule 15 of the DHC Rules is only 30 days and on expiry of 30 days, the court can only condone a delay which does not exceed 15 days over and above 30 days and that too on the condition that the plaintiff is able to offer adequate and sufficient reasons explaining as to why the replication could not be filed within 30 days. As observed earlier, since the terms 'Court' and 'Registrar' have been defined in the DHC Rules, Rule 5 requires that the court alone can extend the time to file the replication beyond the period of 30 days from the date of receipt of the written statement. Even the discretion vested in the court for granting extension of time is hedged with conditions and the outer limit prescribed is 15 days. If the replication is not filed within the extended time granted, the Registrar is required to place the matter back before the court for closing the right of the plaintiff to file the replication.*

***24**. A reading of the relevant provisions of the DHC Rules shows that it is a special provision within the meaning of Section 29(2) of the Limitation Act (for short 'the Act'), that contemplates that where any special or local law prescribes a time limit that is different from the one provided for under the Limitation Act, 1963, then Section 4 to Section 14 of the Limitation Act, 1963 would be expressly excluded. It is well settled that even in a case where the special law does not exclude the provisions of Section 4 to Section 14 of the Limitation Act, 1963 by an express provision or reference, then too, if it is clear from the mandate or the language of the statute, the scheme of*

*the special law will exclude the application of Section 4 to Section 14 of the Limitation Act, 1963. (Ref : Hukumdev Narain Yadav v. Lalit Narain Mishra, reported as (1974) 2 SCC 133).*

***25**. It is equally well settled that when the provision of a law/statute prescribes specific provisions, then those provisions cannot be sidestepped or circumvented by seeking to invoke the inherent powers of the court under the statute. The principles required to be followed for regulating the inherent powers of the court in the context of applying the provisions of Section 151 CPC, have been highlighted in State of Uttar Pradesh v. Roshan Singh, reported as (2008) 2 SCC 488, wherein the Supreme Court has observed as under:*

> *"7. The principles which regulate the exercise of inherent powers by a court have been highlighted in many cases. In matters with which the Code of Civil Procedure does not deal with, the court will exercise its inherent power to do justice between the parties which is warranted under the circumstances and which the necessities of the case require. If there are specific provisions of the Code of Civil Procedure dealing with the particular topic and they expressly or by necessary implication exhaust the scope of the powers of the court or the jurisdiction that may be exercised in relation to a matter, the inherent powers of the court cannot be invoked in order to cut across the powers conferred by the Code of Civil Procedure. The inherent powers of the court are not to be used for the benefit of a litigant who has a remedy under the Code of Civil Procedure. Similar is the position vis-à-vis other statutes.*
>
> *8. The object of Section 151 CPC is to supplement*

*and not to replace the remedies provided for in the Code of Civil Procedure. Section 151 CPC will not be available when there is alternative remedy and the same is accepted to be a well-settled ratio of law. The operative field of power being thus restricted, the same cannot be risen to inherent power. The inherent powers of the court are in addition to the powers specifically conferred on it. If there are express provisions covering a particular topic, such power cannot be exercised in that regard. The section confers on the court power of making such orders as may be necessary for the ends of justice of the court. Section 151 CPC cannot be invoked when there is express provision even under which the relief can be claimed by the aggrieved party. The power can only be invoked to supplement the provisions of the Code and not to override or evade other express provisions. The position is not different so far as the other statutes are concerned. Undisputedly, an aggrieved person is not remediless under the Act."(emphasis supplied)*

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***28**. In our opinion, reliance placed by Mr. Mehta on Desh Raj (supra), is also misplaced. No doubt, the Supreme Court has held that a reading of proviso 2 appended to Rule 1 of Order VIII would show that the said Rule is only directory and not mandatory, ultimately the Supreme Court has refused to condone the delay in that case. In fact, the said decision is not applicable to the facts of this case for the reason that in the said judgment, there was no occasion to deal with the scope and effect of Rule 5 of Chapter VII of the DHC Rules. In any event, the DHC Rules will have an overriding effect on the CPC. Notably the Code does not provide for filing of any replication. Order VI,*

*Rule 1 describes "pleadings" to mean plaint or written statement. It is the Delhi High Court (Original Side) Rules, 2018 that provides a time limit for filing the replication and since the said Rules regulate the procedure, the same will have to prevail over the Code. We are in complete agreement with the view taken by the Division Bench of this court in DDA v. K.R. Builders (P) Ltd., reported as (2005) 81 DRJ 708 and relied on in HTIL Corporation, B.V v. Ajay Kohli, reported as (2006) 90 DRJ 410, where it was observed as under:*

> *"6. The question as to whether the CPC or the Original Side Rules will apply was considered by a Division Bench of this court in the recent case of DDA v. K.R. Builders P. Ltd., (2005) 81 DRJ 708 (DB). The finding of the Division Bench supported the view of the learned defence counsel that suits filed on the original side of this court would be governed by the rules framed by the High Court to the exclusion of the provisions of the CPC wherever the field is occupied by these Rules and that this court has the power to extend the time for filing the written statement even beyond 90 days. However, the Division Bench also clarified that Rule 3, as it then stood, of Chapter IV of the Delhi High Court (Original Side Rules) does not contemplate unending extensions to be granted on the asking. Rule 3 provided as under:*
>
> > *"3. Extension of time for filing written statement.— Ordinarily, not more than one extension of time shall be granted to the defendant for filing a written statement provided that a second or any further extension may be granted only on an application made in writing setting forth*

*sufficient grounds for such extension and supported, if so required, by an affidavit."*

*7. The Division Bench pointed out that as per the rule quoted above, only one extension of time was to be granted for filing written statement and that the second or further extension may be granted only on an application made in writing setting forth sufficient grounds. It was also pointed out that the expression 'any further extension' in this proviso does not contemplate unending extensions on the asking and that 'any further extension' should receive a restricted interpretation. The situation has now changed since the Delhi High Court (Original Side Rules) have also been amended. The amendment which has taken effect on 9.1.2006 is now as under:*

> *"3. Extension of time for filing written statement.— Where the defendant fails to file written statement within the period of 30 days as stated in Rule 2(ii) he shall be allowed to file the same on such other day as may be specified by the Court on an application made in writing setting forth sufficient ground for such extension and supported, if so required, by an affidavit but such day shall not be later than 90 days from the service of summons."*

*8. In view of this amendment, the Delhi High Court (Original Side Rules) give the same time schedule for filing a written statement. Written statement, therefore, can be filed within 30 days and thereafter on sufficient ground for such extension being shown on an affidavit but such extension shall not be later than 90 days from the date of service."*

7. Though the said Judgment only deals with the filing of replication, however, the same analogy would apply to written statement also.

8. A co-ordinate Bench of this Court in Amarendra Dhari Singh v. R.C. Nursery Pvt. Ltd., **2023 SCC OnLine Del 84,** has taken a view that this Court has power to condone the delay. However, the said position has been further explained by a co-ordinate Bench of this Court in Ms. Charu Agarwal Vs. Mr. Alok Kalia & Ors., **2023 SCC OnLine Del 1238,** wherein the co-ordinate Bench, while holding that the Judgment of the Division Bench of this Court in Ram Sarup Lugani (supra) holds the field, has held as under:

> "*28. As would be apparent from the aforesaid conclusions which stand recorded in Amarendra Dhari Singh, the learned Judge appears to have taken the view that notwithstanding the usage of the expression "but not thereafter" in Rule 4, the penultimate part of that Rule, and which in the opinion of the learned Judge conferred a discretion upon the Registrar to either close the right to file a written statement or to grant further time, clearly appeared to suggest that the said power of condonation would still be available notwithstanding the maximum period as prescribed in that Rule having lapsed. While seeking to explain the decision in Ram Sarup Lugani, the learned Judge held that the difference between the language of Rule 4 and 5 would be crucial and decisive and thus the Registrar being empowered to extend time beyond the maximum prescribed notwithstanding the use of the expression "but not thereafter". It becomes significant to recall here that a submission was in fact addressed before the Division Bench that the stipulation of the matter being placed before the Court after the maximum period had expired in terms of Rule 5 would appear to suggest that the prescription of time in that provision was not*

*inviolable. The said contention was soundly rejected by the Division Bench in light of the peremptory language employed in the Rule.*

*29. Similarly, the decision in Harjyot Singh was sought to be explained with the learned Judge observing that the Court had failed to notice the distinction in the language employed in Rules 4 and 5 and that it had not noticed the judgment of the Court in Esha Gupta. Suffice it to note at this juncture that the decision in Esha Gupta rested principally on Order VIII and the decisions rendered in the context of that provision. However, that analogy as would be evident from the preceding parts of this decision, had been stoutly negated in Ram Sarup Lugani which had come to be delivered after the judgment in Esha Gupta. Additionally, it may be noted that the decision in Esha Gupta had in any case failed to consider the earlier decisions of the Court and which had categorically held that the principles underlying Order VIII could not have been imputed to construe the Rules of the Court.*

*30. The learned Judge further observed that this Court while framing the Rules consciously chose not to adopt the language as employed in the Commercial Courts Act, 201515. This, according to the learned Judge, would be indicative of the intent to preserve the discretion which stands vested in the Registrar notwithstanding the maximum period of 120 days having expired. Suffice it to state that those provisions do not employ the phrase "but not thereafter" at all.*

*31. The Court, on a foundational plane, firstly deems it apposite to advert to the principles which govern the theory of precedents. Our jurisprudence is based upon certainty and the hierarchy of courts. The law evolves based upon judgments which enunciate the law and lay*

*down principles which the courts are bound to follow. Judgments rendered by coordinate benches or benches of a larger composition bind a court irrespective of doubts or views that may be harboured by individual judges. The mere fact that a particular contention may not have been urged or there be an angular argument which gives birth to a doubt with respect to the correctness of a decision have never been understood or accepted to be adequate to tread a line contrary to what may have been held in a decision which binds and compels a court to follow a rule which has held the field. A court would be entitled to take a contrary view if it were sitting in a Bench of a larger composition or where it comes across a judgment which permits it to review or doubt a decision. These could be situations where a judgment doubts the correctness of a decision or where a judgment of a superior court permits a court to review and reconsider a previously decided case. A novel argument or a mere fresh review of what a statutory provision entails or should mean has never been accepted as being sufficient ground to discard a binding precedent.*

*32. It must be borne in mind that the principle of binding precedent bids each Court to adhere to the principles that may have been enunciated by either Coordinate Benches or those of a larger coram. The ratio as flowing from those decisions can neither be doubted nor brushed aside merely upon a fresh interpretation or a review of the relevant provisions. A precedent would continue to bind Benches of a smaller coram as well as Coordinate Benches notwithstanding a new argument being canvassed and which may appear to be attractive. It becomes equally important to observe that if a judge sitting singly were to doubt the correctness of a precedent delivered by a bench of superior strength on it being perceived that a latter decision of a Bench of coordinate strength takes a*

*contrary view, the only recourse open to be adopted would be to refer the matter for the consideration of a larger Bench in terms of Chapter II Rule 2 of our Rules.*

*33. The binding nature of verdicts was explained by a Full Bench of our Court in Deepak Kumar v. District and Sessions Judge, Delhi16 in the following terms:—*

> *"38. In this context, the Supreme Court held in Shyamaraju Hegde v. U. Venkatesha Bhat, (1988) 1 SCR 340 that:*
>
> *"The Full Bench in the impugned judgment clearly went wrong in holding that the two-Judge Bench of this Court referred to by it had brought about a total change in the position and on the basis of those two judgments. Krishnaji's case would be no more good law. The decision of a Full Bench consisting of three Judges rendered in Krishnaji's case was binding on a bench of equal strength unless that decision had directly been overruled by this Court or by necessary implication became unsustainable. Admittedly there is no overruling of Krishnaji's decision by this Court and on the analysis indicated above it cannot also be said that by necessary implication the ratio therein supported by the direct authority of this Court stood superseded. Judicial propriety warrants that decisions of this Court must be taken as wholly binding on the High Courts. That is the necessary outcome of the tier system."*
>
> *39. In view of the above discussion, this Court holds that whatever reservations may exist and might have even been voiced in Subhash Chandra about the holding in S. Pushpa being contrary to earlier Constitution Bench rulings in Marri,*

*Action Committee, Milind etc., it was not open to a Division Bench of this court, in Delhi and State Subordinate Selection Board v. Mukesh Kumar (supra) to say that Subhash Chandra prevailed particularly since S. Pushpa was by a larger three member Bench. It is true that the concerns and interpretation placed by Subhash Chandra flow logically from a reading of the larger Supreme Court Constitution Bench rulings. Nevertheless, since this Court is bound by the doctrine of precedent, and by virtue of Article 141 has to follow the decision in Pushpa, as it deals squarely with the issue concerning status of citizens notified as scheduled castes from a state to a Union Territory, it was not open, as it is not open to this court even today, to disregard Pushpa. The Court further notices that the correctness of Subhash Chandra has been referred for decision in the State of Uttaranchal case; the matter is therefore at large, before the Constitution Bench, which will by its judgment show the correct approach. Till then, however, Pushpa prevails."*

*34. A more lucid enunciation of the legal principles governing the theory of precedents appears in the judgment of the Full Bench of the Allahabad High Court in Rana Pratap Singh v. State of Uttar Pradesh17;*

*"9. Reference may also be made to Maheshwar Prasad v. Kanahaiya Lal,' (1975) 2 SCC 232 : AIR 1975 SC 907, where it was said, "Certainty of the law, consistency of rulings and comity of courts — all flowering from the same principle — converge to the conclusion that a decision once rendered must later bind like cases. We do not intend to detract from the rule that, in exceptional instances, where by obvious inadvertence or*

*oversight a judgment fails to notice a plain statutory provision or obligatory authority running counter to the reasoning and result reached, it may not have the sway of binding precedents. It should be a glaring case, an obtrusive omission."*

*10. Finally, in Sundarjas Kanyalal Bhathija v. The Collector, Thane, ((1989) 3 SCC 396 : AIR 1990 SC 261) it was held "One must remember that pursuit of the law,' however glamorous it is, has its own limitation on the Bench. In a multi-judge court, the Judges are bound by precedents and procedure. They could use their discretion only when there is no declared principle to be found, no rule and no authority."*

*14. The Full Bench in Pritam Kaur's case, AIR 1984 P&H 113 (supra), on its part, held, "It is equally necessary to highlight that the binding nature of precedents generally and of Full Benches in particular, is the king-pin of our judicial system. It is the bond that binds together what otherwise might well become a thicket of individualistic opinions resulting in a virtual judicial anarchy. This is a self-imposed discipline which rightly is the envy of other Schools of Law." The Bench further added "The very use of the word 'binding' would indicate that it would hold the field despite the fact that the Bench obliged to follow the same may not itself be in agreement at all with the view. It is a necessary discipline of the : law that the judgments of the superior Courts and of larger Benches have to be followed unhesitatingly whatever doubts one may individually entertain about their correctness. The rationale for this is plain because to seek a universal intellectual unanimity is an ideal too*

*Utopian to achieve. Consequently, the logic and the rationale upon which the ratio of a larger Bench is rested, are not matters open for reconsideration. Negatively put, therefore, the challenge to the rationale and reasoning of a larger Bench is not a valid ground for unsettling it and seeking a re-opening and reexamination of the same thus putting the question in a flux afresh."*

*15. The reference was answered in these terms, "it would follow as a settled principle that the law specifically laid down by the Full Bench is binding upon the High Court within which it is rendered and any and every veiled doubt with regard thereto does not justify the reconsideration thereof by a larger Bench and thus put the law in a ferment afresh, The ratios of the Full Benches are and should be rested on surer foundations and are not to be blown away by every side wind. It is only within the narrowest field that a judgment of a larger Bench can be questioned for reconsideration. One of the obvious reasons is, where it is unequivocally manifest that its ratio has been impliedly overruled or whittled down by a subsequent judgment of the superior Court or a larger Bench of the same Court. Secondly, where it can be held with certainty that a co-equal Bench has laid down the law directly contrary to the same, and, thirdly, where it can be conclusively said that the judgment of the larger Bench was rendered per incuriam by altogether failing to take notice of a clear-cut statutory provision or an earlier binding precedent. It is normally within these constricted parameters that a similar Bench may suggest a reconsideration of the earlier view and not otherwise. However, it is best in these matters to be neither dogmatic nor exhaustive yet*

*the aforesaid categories are admittedly the well accepted ones in which an othewise binding precedent may be suggested for reconsideration".*

*16. On this aspect another relevant judicial pronouncement comes in Ambika Prasad v. State of U.P. ((1980) 3 SCC 719 : AIR 1980 SC 1762). There, in the context of the U.P. Imposition of Ceiling on Land Holdings Act, 1961, while dealing with the question as to when reconsideration of a judicial precedent is permissible. Krishna Iyer, J. so aptly put it "Every new discovery or argumentative novelty cannot undo or compel reconsideration of a binding precedent".*

*17. Further, "It is wise to remember that fatal flaws silenced by earlier rulings cannot survive after death because a decision does not lose its authority 'merely because it was badly argued, inadequately considered and fallaciously reasoned' (Salmond Jurisprudence, page 215, 11th Edition)".*

*18. Implicit, thus, in the disregard by a single Judge or a Division Bench of a binding judicial precedent of a larger Bench or seeking to doubt its correctness for reasons and in circumstances other than those spelt out in Pritam Kaur' s case AIR 1984 P&H 113 (supra) is what cannot but be treated as going counter to the discipline of law so essential to abide by, for any efficient system of law to function, if not it virtually smacking of judicial impropriety. In other words, it is only within the narrow compass of the rule as stated by the Full Bench in Pritam Kaur's case, AIR 1984 P&H 113 that reconsideration of a judgment of a larger Bench can be sought and as has been so*

*expressively put there, such judgments are not "to be blown away by every side wind"."*

*35. It must with due respect be observed that neither Order VIII as originally standing in the Code nor its provisions as adopted by the 2015 Act employ the phase "but not thereafter". The said expression stands enshrined in both Rules 4 and 5 of 2018 Rules. It was the adoption of the aforesaid phrase which was understood by the Division Bench in Ram Sarup Lugani to be of critical and vital significance. The Court is further constrained to observe that once the Division Bench had on an extensive review of Rule 5 come to conclude that the usage of the expression was indicative of a terminal point having been constructed, it would have been impermissible to take a contrary view. Ram Sarup Lugani had tested the provisions of Rule 5 based on a textual interpretation, the adoption of a special period of limitation, the recognition of the Order VIII principles not being applicable and even the inherent power not being liable to be invoked in light of the emphatic language of the provision itself. Ram Sarup Lugani had also noticed the earlier Division Bench judgments in DDA v. K.R. Builders Pvt. Ltd.18, HTIL Corporation B.V v. Ajay Kohli19 as well as in Print Pak Machinery Ltd. v. Jay Kay Papers Converters20. all of which had consistently upheld and recognised the primacy of the Rules over the provisions of the Code. The Court in Ram Sarup Lugani had also duly noticed the judgment of the Supreme Court in Desh Raj. The former decision thus constituted a binding precedent on the scope of the Rules, the mandatory nature of the timelines prescribed thereunder and that neither Order VIII nor the inherent powers of the Court being liable to be invoked to extend the period of limitation as stipulated in Rule 5.*

*36. While the aforesaid discussion would have been*

*sufficient to lay the controversy at rest, since Amarendra Dhari Singh also proceeds on a perceived distinction between Rules 4 and 5, the Court deems it apposite to observe as follows. As was noticed in the preceding parts of this decision, both Rules employ the phrase "but not thereafter". Both the phrases "not exceeding" and "but not thereafter" must clearly be accorded due weight and consideration. This was an aspect which was duly noticed in Ram Sarup Lugani.*

*37. Regard must also be had to the fact that while the penultimate part of Rule 4 is not replicated in Rule 5, that too would be of little significance when one holistically reads Rule 4. It becomes pertinent to note that the obligation to file a written statement in 30 days is originally placed by Rule 2 falling in Chapter VII. Rule 4 deals with the extension of time for filing a written statement. As is manifest from a plain reading of that provision, it confers a power on the Court to condone the delay that may have been caused and a written statement having not being filed within 30 days if it be satisfied that the Defendant was prevented by sufficient cause and for exceptional and unavoidable reasons to file the same within the prescribed period. Rule 4 then and upon such satisfaction being arrived at empowers the Court to extend the time for filing a written statement by a further period not exceeding 90 days but not thereafter.*

*38. The penultimate part of Rule 4 talks of the power of the Registrar to close the right of a Defendant to file a written statement if it be found that the same has not been tendered within the extended time. The use of the phrase "extended time" cannot possibly run beyond the maximum period of 120 days. In any case, the said provision as made in Rule 4 cannot possibly be countenanced or interpreted to recognise the Registrar being empowered to additionally extend time beyond*

*the period of 120 days. The reliance which has been placed on various decisions noticed above and delivered in the context of Order VIII as found in the Code would have to be duly understood bearing in mind what had been held by the earlier Division Benches of our Court in K.R. Builders Pvt. Ltd., HTIL Corporation as well as in Print Pak. The said judgments had consistently held that the Rules as adopted by the Court would clearly prevail over and above those which may find place in the Code. All the four decisions noticed above, had been rendered prior in point of time to Esha Gupta and had neither been noticed nor considered in the said judgment. Ram Sarup Lugani while relying on the aforenoted decisions, had drawn sustenance from those decisions in support of its ultimate conclusion that Order VIII and the principles underlying the same would not apply to Rule 5.*

*39. The Court also deems it necessary to observe that the Rules directly fell for consideration of the Division Bench in Ram Sarup Lugani as well as the learned Judges who authored Gautum Gambhir and Harjyot Singh. The facial distinction between Rules 4 and 5 which appears to have weighed with the Court in Amarendra Dhari Singh would, in any case, not justify taking a contrary view. The Court notes that both Gautum Gambhir and Harjyot Singh were decisions rendered directly in the context of Rules 4 and 5 as enshrined in Chapter VII. This Court thus finds itself unable to accord an interpretation upon Rule 4 or 5 which would run contrary to what had been held in the earlier decisions and which necessarily bind this Court.*

*40.* ***In conclusion, this Court is of the considered opinion that Gautam Gambhir, Ram Sarup Lugani and Harjyot Singh are binding precedents on the***

***scope of Rules 4 and 5 as falling in Chapter VII of the Rules. The mere fact that the argument of a perceived discretion vesting in the Registrar in Rule 4 was not specifically raised or addressed would not justify the judgment of the Division Bench being either ignored or doubted. The Court has already noticed the issues that arise out of the judgment of the Division Bench in Esha Gupta. The earlier decisions of the Division Benches of the Court in K.R. Builders, HTIL Corporation, and Print Pak do not appear to have been cited for the consideration of the Bench. Ram Sarup Lugani was a judgment which came to be rendered upon an exhaustive analysis of the earlier precedents rendered in the context of the Rules and the Code, the peremptory language in which Rule 5 stood couched, of how the creation of a special rule relating to limitation would exclude the permissibility of condonation or extensions being granted. While the order of the Division Bench in Tushar Bansal was based on a concession that was made, the judgment in Jamaluddin came to be pronounced with neither side having drawn the attention of the Court to the decision in Ram Sarup Lugani. The said decision proceeded on the principles which underlie Order VIII of the Code and the judgments of the Supreme Court in Kailash and Bharat Kalra rendered in the context of that provision. The Court notes that the adoption of Order VIII principles already stood negated by the earlier Division Benches in K.R. Builders, HTIL Corporation, Ajay Kohli and Print Pak. Those decisions too do not appear to have been cited for the consideration of the Court in Jamaluddin.***

***41. The Court thus comes to conclude that the principles enunciated in Ram Sarup Lugani would continue to bind and govern the interpretation liable to be accorded to the Rules. The Court has firstly***

> ***found that there exists no distinction between Rules 4 and 5 which may be countenanced in law as justifying Rule 4 being interpreted or understood differently. In any case the binding decisions rendered on the subject constrain the Court to desist from treading down this path. The Court, bound by the rule of precedent, is of the considered opinion that such a review or a reconsideration would be impermissible in law. Since the Court has found that both coordinate Bench as well as Benches of a larger coram have conclusively settled all issues that stand raised, no reference is also warranted.***"
>
> (emphasis supplied)

9. Applying the law laid down by the Division Bench of this Court in Ram Sarup Lugani (supra) to the facts of this case, this Court does not have the power to condone the delay in filing the Written Statement beyond 120 days.

10. Learned Counsel appearing for the Defendant No. 2 vehemently contends the delay in filing the written statement was only of six days beyond the outer limit of 120 days, and as such, this Court ought to be liberal in adjudicating the instant Application seeking condonation of delay.

11. Learned Counsel for the Defendant No. 2 further submits, while relying on Rule 3 under Chapter II of the DHC OS Rules, that the power to take decisions *inter alia* of an application seeking condonation of delay in filing the written statement lies with the learned Joint Registrar, and against such an order of the learned Joint Registrar, an appeal can be maintained under Rule 5 under Chapter II of the DHC OS Rules, before the Judge in Chambers. Apart from this reason, learned Counsel for the Defendant No.2 also states that the provision should be construed liberally as it has an effect

on the legal rights of the Defendants.

12. This Court is of the opinion that sending the matter back to the learned Joint Registrar would only be a use-less formality in view of the law laid down by the Division Bench of this Court in Ram Sarup Lugani (supra) and, therefore, this Court is not inclined to accept the submission of the learned Counsel for the Defendant No.2.

13. This Court also does not find any force in the contention of the learned Counsel for the Defendant No. 2, that since there was a delay of only six days beyond the outer limit of 120 days, the same ought to be dealt with liberally, permitting the written statement to come on record.

14. Rules 2 and 4 under Chapter VII of the DHC OS Rules make it clear that even for the period of 90 days beyond the 30 days prescribed therein for filing of the written statement, 'sufficient cause' needs to be shown and only then does the Court have power to condone the delay. However, beyond the period of 120 days, the Court is powerless when it comes to condoning the delay in filing the written statement, more so when the reasons such as the ones provided in the instant Application, are vague and do not depict a case of 'exceptional' and 'unavoidable' circumstances.

15. In view of the above discussion, this Court does not find any reason to condone the delay of 126 in filing of the written statement of the Defendant No. 2.

16. The Application is, accordingly, dismissed.

**CS(OS) 725/2022 & I.A. 19377/2022, I.A. 19378/2022, I.A. 19382/2022, I.A. 6448/2024, I.A. 5571/2026**

17. List before the Court on 16.04.2026 for framing of issues and

considering the application being I.A. No. 6448/2024 filed by the Plaintiffs under Order XXXIX Rule 2A of the CPC.

18. It is made clear that the hearing of application under Order XXXIX Rule 2A of the CPC shall not deter the trial proceedings.

**SUBRAMONIUM PRASAD, J**

**FEBRUARY 27, 2026**
*Prateek*