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

+ CS(OS) 273/2023 & I.A. 45154/2024

MRS NAVTEJ KAUR SINGH THROUGH ATTORNEY HOLDER  
MR IQBAL SINGH ATWAL .....Plaintiff

Through: Mr. Nitin Gupta and Mr. Ayush  
Chauhan, Ms. Tia Sachdeva,  
Advocates

versus

MR AMARJIT KAUR RANDHAWA & ORS. ....Defendants

Through: Mr. Nipun Katyal, Advocate

**CORAM:**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**ORDER**

% **18.11.2024**

**I.A. 45154/2024** (Application on behalf of the plaintiff under Section 5 of the Limitation Act, 1963 seeking condonation of delay in filing replication of the written statement of defendants)

1. This is an application filed by the plaintiff seeking condonation of delay of '97' days beyond the statutory period of '30' days, in filing the replication to the written statement filed by the defendants.
2. Rule 5 of Delhi High Court (Original Side) Rules, 2018 prescribes that replication shall be filed within 30 days of receipt of written statement and the Court may extend the time for filing the same for a period not exceeding '15' days but not thereafter.
3. The said Rule 5 has been duly considered by the Division Bench of



this Court in **Ram Swarup Lugani & Another v. Nirmal Lugani & Others**<sup>1</sup> which was upheld by the Supreme Court in SLP No. 15142/2020, has inter alia held as under:

“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 peremptory 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

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<sup>1</sup> 2020 SCC OnLine Del 1353.



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...”

(Emphasis supplied)

4. In view of the aforesaid judgment of the Division Bench with respect to Rule 5, the relief of condonation of delay of ‘97’ days in filing of the replication sought in the present application is barred in law and therefore, cannot be granted.

5. Moreover, the grounds set out in the application fails to show any exceptional or unavoidable reasons which prevented the plaintiff from filing the replication within the statutory period of limitation.



6. Accordingly, the application is dismissed.

7. Needless to state that at the stage of recording of evidence during trial, the plaintiff will remain at liberty to raise such further averments which are consistent with the stand taken in the plaint, to sustain the claims raised therein.

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8. Learned counsel for the parties state that the parties are *ad-idem* on the sale of the immovable property i.e., Ground Floor, 3 Bedroom Apartment with a Basement and attached Lawn at A-1, Geetanjali Enclave, New Delhi and request for an appointment of a Local Commissioner to facilitate the said sale.

9. Accordingly, Mr. Abhimanyu Mahajan, Advocate (D/598-R/1998) (Ph. No. 9811103447; email ID: abhimanyumahajan@gmail.com) is appointed as a Local Commissioner for conducting the sale of the suit property.

10. The Local Commissioner (LC) will determine the reserve market value of the above-mentioned property and thereafter supervise the sale of the property.

11. The parties seek liberty to explore private sale under the aegis of the LC. It is directed that the LC will be at liberty to facilitate a private sale of the suit property by mutual consent within two (2) months, failing which the LC will take steps for holding a public auction of the suit property in accordance with law. The parties herein will be at liberty to participate in the public auction either through themselves or through a third party.

12. The fee of the LC at this stage is fixed at Rs. 2,50,000/- to be borne by the parties in equal proportion. List before the LC on 02.12.2024.



13. List before the learned Joint Registrar (J) for further proceedings on **31.01.2025.**

**MANMEET PRITAM SINGH ARORA, J**  
**NOVEMBER 18, 2024/msh/sk**

[Click here to check corrigendum, if any](#)