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

CNR No. DLHC010171562026

+ **CM(M) 910/2026**

RAJKUMAR

.....Petitioner

Through: Mr. Sanjay Sethi and Mr. Manni
Sethi, Advs.

versus

URMILA MEHRA

.....Respondent

Through: Mr. Rahul Kumar Singh and Mr.
Shailendra Kumar Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

21.08.2026

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1. Through the present petition, the petitioner seeks to assail the order dated 02.02.2026 passed by the learned Civil Judge in Civil Suit No. CS SCJ 1969/2025 whereby the petitioner's written statement was struck off, and order dated 20.03.2026 whereby the petitioner's application under Order VIII Rule 1 of the Code of Civil Procedure, 1908, has been dismissed.
2. The brief facts of the present case are as follows-
3. The respondent instituted the underlying civil suit on 27.10.2025, the summons therein was served on 20.11.2025 and the matter was taken up for the first time on 04.12.2025 and the petitioner was directed to file his written statement.
4. The learned trial court *vide* order dated 02.02.2026 noted that the written statement had not been filed within the statutory period, and that no



application for condonation of delay under Order VIII Rule 1 had been filed in support thereof. The written statement was struck off, three issues were framed, and the matter was put for PE on 20.03.2026.

5. In the *interregnum*, on 06.03.2026, the petitioner filed his application under Order VIII Rule 1 CPC contending *inter alia* that the inadvertent and unforeseen delay of 91 days was because of the time it took to trace old documents, and also that the plaint received by the petitioner was incomplete.

6. The learned trial court on 20.03.2026 dismissed the petitioner's application under Order VIII Rule 1 CPC while holding that the reasons as set out by the petitioner were unsubstantiated and that no case had been made out for condoning the delay beyond the statutory period. Aggrieved, the petitioner has invoked the supervisory jurisdiction of this Court under Article 227.

7. The learned counsel for the petitioner has submitted that admittedly the delay is within the condonable period of 120 days as set out in the proviso to Order VIII CPC. He has submitted that the learned trial court has erred in failing to appreciate the reasons set out for condoning the delay. He has also submitted that the learned trial court has failed to consider the severe prejudice which will be caused to the petitioner on account of striking off of his written statement.

8. After some arguments, learned counsel for the respondent has submitted that subject to payment of cost, the petitioner's written statement can be taken on record.

9. A bare perusal of Order VIII Rule 1 and its accompanying provisos make it clear that while the statutory period of filing the written statement is



30 days, however, the condonable period, subject to explanation and cost, is of 120 days from the service of summons. In the present case, the summons was received on 20.11.2025, and admittedly, the written statement and the application under Order VIII Rule 1 have been filed within the condonable period of 120 days.

10. Furthermore, it is also trite law that a balance needs to be struck between the substantive rights of parties, and deterrence from dereliction of the orders of a court.

11. This Court is of the opinion, that subject to payment of cost of Rs. 10,000/- payable by the petitioner to the counsel for the respondent within a period of two weeks from today, the written statement be taken on record.

12. Accordingly, the present petition is allowed and disposed of. Pending applications, if any, are also disposed of.

13. It is made clear that this Court has not expressed its views on the merits of the matter.

AJAY DIGPAUL, J

AUGUST 21, 2026/ar/sg