



\$~11

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

+ **C.R.P. 105/2024**

NEELAM GAUR Petitioner

Through: Ms.Usha Yadav, Mr.Amit
Yadav, Ms.Rabala Sharma and
Mr.Surendra Yadav, Advocates.

versus

PREM PRAKASH SHARMA & ORS. Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **16.05.2024**

CM APPL. 15934/2024 (EXMP.)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 15935/2024 (DELAY)

3. For the reasons stated in the application and in the interest of justice, the application is allowed and the delay of 39 days in filing the revision is condoned. The application stands disposed of.

C.R.P. 105/2024 & CM APPL. 15933/2024 (STAY)

4. The petitioner, who is defendant in a suit instituted by the respondents/plaintiffs, has assailed the impugned order dated 22.11.2023 passed by the learned Additional District Judge-06, South-West District, Dwarka Courts, Delhi¹, whereby her application under Order VIII Rule 1 of the CPC² for recalling of order dated 19.01.2023

¹ Trial Court

² Code of Civil Procedure, 1908



was dismissed.

5. None appeared for the respondents/plaintiffs despite sending advance notice.

6. Evidently, the defence of the petitioner/defendant was struck off by the learned Trial Court *vide* order dated 19.07.2023² as she failed to file written statement within the stipulated time. An application under Order VIII Rule 1 of the CPC was then moved on behalf of the petitioner/defendant on 17.11.2023.

7. It is urged by the learned counsel for the petitioner/defendant that the previous counsel engaged by her did not advise her properly and he failed to inform her that the written statement was supposed to be filed within a period of 90 days which was further extendable upto 120 days, and thus, on that account as also for being a senior citizen suffering from various ailments, she was unable to put her defence to the effect that there was a valid registered Will in her favour executed by her father.

8. It is well settled that period of filing written statement cannot be extended by the Court even under its inherent powers. Hence, there is no merit in the present revision petition and same is accordingly dismissed.

9. The pending application also stands disposed of.

DHARMESH SHARMA, J.

MAY 16, 2024/sm