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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **C.R.P. 59/2024**

BHAGAT RAM .....Petitioner  
Through: Mr. Shubhankar Sharma,  
Adv.

versus

KISHAN CHAND .....Respondent  
Through: Mr. Vikram Gujral, Ms.  
Akanksha Singh & Mr.  
Aryan Kalia, Advs.

**CORAM:**  
**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER**  
**03.02.2025**

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1. The present petition is filed challenging the impugned order dated 28.11.2023 passed by the learned ACJ-ARC, Saket Courts, Delhi, in CS SCJ 445/2022, pursuant to which the application under Order VIII Rule 1 read with Section 148 of the Code of Civil Procedure, 1908 filed by the petitioner / defendant seeking condonation of delay in filing the written statement was dismissed and the defence of the petitioner was struck off.
2. The respondent had filed a suit seeking declaration and injunction in regard to the property in dispute. The petitioner and the respondent are the real brothers and appears to be litigating in regard to the subject property.
3. By order dated 02.06.2022, directions were issued to the petitioner to file written statement within a period of 30 days.
4. The written statement came to be filed by 02.09.2022 with delay for which the application seeking condonation of delay was filed on 10.01.2023.
5. The learned counsel for the petitioner submits that the



parties are real brothers and were also referred by the learned Trial Court to the mediation for the settlement talks which led to delay in filing application seeking condonation of delay.

6. The learned counsel for the respondent submits that he has no objection if the impugned order is set aside and the written statement filed by the petitioner is taken on record, *albeit*, on imposition of cost.

7. The perusal of the impugned order indicates that no valid reasons were given by the petitioner for condonation of delay in filing the written statement.

8. However, considering that the parties are real brothers and are litigating over a property, this Court considers it apposite to allow an opportunity to the petitioner to contest the suit.

9. In view of the above, the written statement filed by the petitioner, is directed to be taken on record and the impugned order is set aside on the petitioner paying a cost of ₹30,000/- to the respondent within a period of four weeks.

10. The petition is allowed in the aforesaid terms.

11. Let a copy of the order be placed before the learned Trial Court for further proceedings.

**AMIT MAHAJAN, J**

**FEBRUARY 3, 2025**

**“SK”**