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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) 183/2024 & CM APPL. 76031/2024**
OMESH MISRA MEMORIAL CHARITABLE TRUST.....Appellant
Through: None.

versus

MS. MANEESHA TYAGI & ORS.Respondents
Through: Mr. Dalip Kr. Malhotra & Mr. Rajesh
Kr. Malhotra, Advs. (Mob:
9810297948.)
Mr. Aditya P Khanna, Adv. for R-3.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

ORDER
% **21.05.2025**

1. This hearing has been done through hybrid mode.
2. This case has been received on transfer.
3. The present appeal is filed under Section 10 of the Delhi High Court Act 1966 against the impugned order dated 16th October, 2024 passed by Id. Single Judge in **O.A.No. 42/2024** in **CS(OS) 590/2022**. Vide the impugned order the Id. Single Judge has upheld the decision of the Joint Registrar failing to take the Appellant's written statement on record. The Ld. Joint Registrar had held that the same was delayed by 123 days which is clearly beyond the period prescribed/mandated under Rule 4 of the Delhi High Court (Original Side) Rules, 2018.
4. None appears for the Appellant.
5. The short question is as to whether the written statement can be taken on record beyond the period prescribed in Rule 4 of the Delhi High Court

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(Original Side) Rules, 2018. This issue is no longer *res integra* and has been decided in two decisions by the Division Bench of this Court in

- (i) **W.P.(C) 15091/2023** titled ***Manhar Sabharwal v. High Court of Delhi & Others***, which upheld the constitutional validity of Rule 4 of the Rules; and
- (ii) **FAO(OS) 102/2023** titled ***Delhi Gymkhana Club Limited v. Col Ashish Khanna SM Retd & Ors.***

both of which have held that the prescribed period of 120 days is mandatory and there cannot be any condonation of delay beyond the same. In ***Manhar Sabharwal (supra)*** the constitutional validity of Rule 4 of the Delhi High Court (Original Side) Rules 2018 was upheld. In ***Delhi Gymkhana (supra)***, it has been categorically held as under:

“17. Considering the above, it is argued by the Id. Counsel for the Appellant Club that the time between the date of issuance of summons i.e., 25th March, 2022, and the date of first appearance on behalf of the new management in the concerned suit i.e., 31st May, 2022, deserves to be excluded for the purpose of calculating the 120 days limitation period stipulated under Rule 4 of Chapter VII of DHC Original Side Rules. However, it is not disputed by the Id. Counsel for the Appellant Club that the Counsel appearing for the said Club on 25th March, 2022 in the concerned suit, had duly accepted the summons on behalf of the Appellant Club.

18. In the opinion of this Court, merely because the management of the club had been changed, the same would not constitute a justifiable ground for extending the time for filing the written statement in terms of Rule 4 of Chapter VII of DHC Original Side Rules. It is also not the case of the Appellant Club that the Counsel who had appeared on 25th March, 2022 on its behalf was not duly authorised by the said Club. It

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deserves to be noted that the matter was also listed before the Id. Joint Registrar on 4th May, 2022 after the new management had taken over, however, on the said date, there was no appearance on behalf of Appellant Club.

19. Rule 4 of Chapter VII of DHC Original Side Rules being mandatory in nature the 120 days limitation period stipulated under the said Rule would begin from 25th March, 2022 i.e., the date when summons was issued and duly accepted on behalf of the Appellant Club.

20. It is noted that on the date on which the new management is stated to have appeared for the first time before the Court in the concerned suit i.e., 31st May, 2022, the outer period of limitation of 120 days had not been exhausted. Thus, the Appellant Club could have still filed the written statement at that stage, but it chose not to do so, albeit on the ground that the representation of the Respondent/Plaintiff to the new management was under consideration in terms of the direction passed by the Id. Single vide order dated 31st May, 2022 in the concerned suit. However, as is clear from the said order of the Id. Single Judge, there is no direction regarding exclusion of the time taken for consideration of the said representation from the stipulated time for filing of written statement.

21. The purpose of fixing an outer time limit under Rule 4 of Chapter VII of the DHC Original Side Rules for filing the written statement is to ensure that the delay in filing of written statement does not lead to further delay in adjudication of civil suits. The validity of this Rule having been upheld by the Division Bench in Manhar Sabharwal (supra), the said Rule becomes mandatorily applicable to all suits including non-commercial suits before the Delhi High Court (Original Side). Accordingly, the Court can only extend the period of 30 days for filing of written statement by further 90 days, but not beyond the period

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of 120 days in total in the opinion of this Court. The language of Rule 4, Chapter VII of the Delhi High Court (Original Side) is clear when it uses the term ‘not thereafter’, as is seen from the text extracted above.

22. In view of the applicable rule, the delay in filing of the written statement in the present case would not be liable to be condoned, and accordingly, the impugned order does not warrant any interference.”

6. In view of these two decisions, there is no error in the order dated 30th November, 2023 passed by the Joint Registrar or in the order of the Id. Single Judge dated 16th October, 2024 which has upheld the same.

7. The appeal is, accordingly, dismissed. Pending application(s), if any, is also disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

MAY 21, 2025

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