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

+ **CM(M) 77/2025**

M/S BHARAT ALUMINIUM COMPANY LTD.Petitioner

Through: **Mr. Ishaan George, Mr. Archit Jain and
Dr. Rukma George, Advs.**

versus

MOHAN SINGH PARMAR & ANR.Respondents

Through: **Mr. Alok Tripathi, Adv. for R-1.
Mr. Varun Mishra, SPC with Ms. Shreya
Sud and Ms. Chetanya Kapoor,
Advocates for R-2.**

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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16.01.2025

CM APPL. 2463/2025 EXEMPTION

Allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 77/2025 & CM APPL. 2462/2025 INTERIM RELIEF

1. The present petition filed under Article 227 of the Constitution of India has been filed for seeking to set aside the order dated 13.11.2024 passed by the trial court whereby the right of the petitioner to file the written statement has been closed.
2. Learned counsel representing the petitioner submits that the grace period until, 13.11.2024 for filing the written statement was allowed by law but the trial court prematurely closed the petitioner's right to file the written statement without offering an opportunity to file application for condonation of delay.
3. It has been further submitted that period stipulated in Order VIII is directory and not mandatory, and therefore, petitioner has since filed an



application under Section 5 of the Limitation Act for condonation of delay along with the written statement but the said application has not been disposed of by the trial court and rather the matter has been listed for PE.

4. Order VIII Rule 1 CPC provides that defendant shall file the written statement within a period of 30 days but if he fails to file the written statement within the said period of 30 days, he shall be allowed to file the same on such other day as may be specified by the court for reasons to be recorded in writing but which shall not be later than 90 days from the date of service of summons.

5. The perusal of the impugned order dated 13.11.2024 reveals that petitioner was served on 02.08.2024. No written statement was filed within the statutory period of 90 days as provided under Order VIII Rule 1 CPC, which expired on 01.11.2024, and therefore, the trial court rightly proceeded to close the right of the petitioner to file the written statement.

6. Thus in non-commercial cases, the statute provides maximum period of 90 days from the date of service of summons for filing the written statement and not 120 days as argued by the learned counsel for the petitioner.

7. There is per se no illegality or impropriety in the order passed by the learned trial court.

8. I therefore find no merit in the present petition. Petition is dismissed but with direction to the trial court to decide the application for condonation of delay, if any, already filed by the petitioner before proceeding to record the evidence.

RAVINDER DUDEJA, J

JANUARY 16, 2025/ib