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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ C.R.P. 360/2025 & CM APPL. 82708-82709/2025
ANIL KUMAR AND ANRPetitioners
Through: Mr. Sarvesh Singh, Mr. Deepak
Chand, Advocates.
versus
DEVENDER KUMAR GARG
@ DAVINDER KUMARRespondent
Through:

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
24.12.2025

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1. The petitioners, who are the defendants in CS No. 92/2018, pending before the District Judge-01, North-East, Karkardooma Courts, Delhi, have filed this revision petition against dismissal of their application under Order XII Rule 6 of the Code of Civil Procedure, 1908 ["CPC"].
2. The case of the petitioners, in the application for judgment upon admission, was that the suit filed by the plaintiff [respondent herein] was barred by limitation, on the basis of admitted facts.
3. The petitioners/defendants had earlier urged the plea of limitation in an application under Order VII Rule 11 of CPC. The said application was filed when the suit was at the fag end of recording of defence evidence. The Trial Court, by order dated 02.12.2025, noted that the application was only a dilatory tactic, but nonetheless considered the same on merits, and dismissed it with costs.
4. Against this order, the petitioners/defendants filed C.R.P 347/2025, which was disposed of by order dated 15.12.2025. This Court did not



disturb the dismissal of the application under Order VII Rule 11 of CPC, but granted limited relief to petitioners/defendants, with regard to producing their remaining witness – Rajender, for conclusion of their evidence. The order of the Trial Court, to the extent that it closed the defendants’ right to examine Rajender as a witness, was therefore modified as follows:

“6. During the course of hearing, learned counsel for the parties agree that the revision petition may be disposed of by granting a last opportunity to the petitioners/defendants to produce their witness, on the next date of hearing.

7. With the consent of learned counsel for the parties, the impugned order is therefore modified to the extent that the affidavit of evidence of Rajender, the only remaining witness on behalf of defendants, be served on learned counsel for the respondent/plaintiff by 17.12.2025. The witness be produced before the Trial Court for cross-examination on the date fixed, i.e. 19.12.2025.

8. After the evidence of the defendant's remaining witness is concluded, the Trial Court may proceed to hear final arguments.”

5. I am informed that the affidavit of evidence of the witness was served upon the other side, but he was not produced on 19.12.2025, as he was stated to have been admitted in hospital. The Trial Court then listed the case on 23.12.2025 to grant them a further opportunity. The witness was not produced even on 23.12.2025, on the ground that he was unwell, and the Trial Court has granted yet another opportunity to produce the witness on 26.12.2025.

6. On 23.12.2025, however, the petitioners/defendants moved an application under Order XII Rule 6 of CPC as aforesaid. The Trial Court dismissed the said application, holding that there was no unequivocal admission. The only ground of admission having been raised on the question of limitation, the Trial Court held that this issue could be finally



decided at the final disposal of the suit.

7. Having heard Mr. Sarvesh Singh, learned counsel for the petitioners/defendants, I am of the view that the present petition is entirely misconceived. The case of the petitioners/defendants on limitation was dealt with by the Trial Court, in its order dated 02.12.2025, which was not disturbed by this Court, *vide* order dated 15.12.2025. It is evident that the filing of repeated applications on the same ground is intended only to delay the final adjudication of the suit. In any event, an order upon admission under Order XII Rule 6 of CPC, is always discretionary. Reference in this connection may be made to Supreme Court decisions in *Karan Kapoor v. Madhuri Kumar* [(2022) 10 SCC 496] and *Rajiv Ghosh v. Satya Narayan Jaiswal* [2025 SCC OnLine SC 751]. The Trial Court has committed no jurisdictional error or irregularity in reserving this question for adjudication after trial.

8. The revision is therefore dismissed with costs of Rs. 25,000/-, payable by the petitioners/defendants to the Delhi High Court Bar Association Costs Account [A/C No. 15530110179338, IFSC Code: UCBA0001553, UCO Bank, Delhi High Court]. The costs be deposited by 05.01.2026. A copy of this order be sent to the Honorary Secretary of the Delhi High Court Bar Association. In the event of non-compliance, an appropriate application may be moved.

PRATEEK JALAN, J

DECEMBER 24, 2025/‘Bhupi’/AD/