



2026:DHC:1207



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 12th February, 2026

+ CM(M) 295/2026 & CM APPL. 7948/2026

M/S JEET ENGINEERING WORKS SOLE PROPRIETORSHIP
THROUGH ITS SOLE PROPRIETOR KANTA PACHNANDA

.....Petitioner

Through: Mr. Prabhoo Dayal Tiwari and Mr.
Radhey Sham, Advocates.

versus

M/S DOON TRADING CO. SOLE PROPRIETORSHIP THROUGH
ITS SOLE PROPRIETOR SH. RAJESH KUMAR DUDANI

.....Respondent

Through: Mr. Neeraj Chaudhari, Mr. Akshay
Chandra, Mr. Prem Nath Upadhyay
and Ms. Vipasana Bubna, Advocates.

CORAM:

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER (Oral)

Rajneesh Kumar Gupta, J.

1. This hearing has been conducted through hybrid mode.
2. The present petition has been filed under Article 227 of the Constitution of India, assailing the order dated 05th July, 2024 passed by the learned Trial Court in *C.S. (COMM) No. 598/2023*, whereby the application filed by the petitioner/defendant under Section 5 of Limitation Act, 1963 seeking condonation of delay in filing the written statement has been dismissed.
3. Learned counsel for the respondent appears on advance notice and accepts notice.



4. The matter is taken up for hearing with the consent of learned counsel for the parties.
5. Heard. Record perused.
6. The relevant portion of the impugned order dated 05th July, 2024 reads as follows:

“Thus, perusal of file it is amply clear that the defendant was served through speed post on 09.08.2023 and through ordinary process on 10.08.2023. The defendant has filed the written statement on 14.12.2023. As such, the written statement was filed by the defendant on 126th day from the date of service of defendant. Therefore, defendant has filed written statement beyond the period of 120 days. The written statement is required to be filed within statutory period of 30 days, however, same can be extended for a period upto 120 days with the permission of the court. However, in the instant matter, the defendant has filed the written statement on 126th day from the date of service i.e. beyond 120 days. As such, in these circumstance, the written statement of the defendant cannot be taken on record and above application for condonation of delay in filing written statement is dismissed.”

7. The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 bringing in their wake certain amendments to the Code of Civil Procedure.

In Order 8 Rule 1, a new proviso was substituted as follows:

“Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the court, for reasons to be recorded in writing and on payment of such costs as the court deems fit, but which shall not be later than one hundred and twenty days from the date of service of summons and on expiry of



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one hundred and twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the court shall not allow the written statement to be taken on record.”

8. From the aforesaid proviso, it is clear that beyond 120 days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the court has no further power to extend the time beyond this period of 120 days.

9. From the record, it is evident that the petitioner/defendant was served through speed post on 09th August, 2023 and through ordinary process on 10th August, 2023. The written statement has been filed by the petitioner/defendant on 14th December, 2023, i.e., beyond the statutory period of 120 days. Since the petitioner has filed the written statement after the expiry of the statutory period of 120 days, the court has no further power to extend the time beyond this period of 120 days. Accordingly, this Court does not find any illegality or infirmity in the impugned order, as the same has been passed in accordance with law and it is upheld.

10. The petition is dismissed as being devoid of any merit. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

FEBRUARY 12, 2026/v/abk