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

+ **FAO 93/2026**

ANSHUMMAN JOSHI

.....Appellant

Through: Mr. Deepak Raj Singh, Advocate

versus

GITA NAKRA AND ANOTHER

.....Respondents

Through: Mr. Unkut Gera, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

17.04.2026

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1. The present appeal has been preferred against the order dated 13.01.2026, whereby the defendant/appellant's application seeking recall of the order passed on an application filed by the plaintiffs/respondents under Order XXXIX Rule 10 of the Code of Civil Procedure, 1908 (CPC), came to be dismissed.
2. The impugned order records that, upon the plaintiffs/respondents filing the application under Order XXXIX Rule 10 CPC, the same was considered as the defendant/appellant had not filed its written statement. Subsequently, along with the application seeking recall, the defendant/appellant also filed written statement along with an application for condonation of delay, which came to be allowed by the Trial Court vide the impugned order itself, subject to payment of costs.
3. Learned counsel for the defendant/appellant submits that the costs have been paid and the written statement has been taken on record.



4. A perusal of the impugned order would reflect that, though it has condoned the delay and directed the written statement to be taken on record, it has, however, failed to consider the stand of the respondent, which has now come on record in the written statement.
5. In view thereof, the impugned order is set aside with a direction to the Trial Court to apply its mind afresh in light of the pleadings that have come on record.
6. Learned counsel for the defendant/appellant assures that he would not seek any unnecessary adjournment before the Trial Court
7. The present appeal is disposed of alongwith the pending application.
DASTI, under the signatures of the Court Master.

MANOJ KUMAR OHRI, J

APRIL 17, 2026

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