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

% *Date of Judgment : 12.04.2021*

\+ **CS(OS) 444/2019 & IA 11932/2019 (stay)**

MR. HARJYOT SINGH ..... Plaintiff
Through Mr Amit Gupta, Advocate with
Mr Hari Shankar Mahapatra, Advocate.

versus

MRS. MANPREET KAUR ..... Defendant
Through Mr Hrishikesh Baruah, Ms Radhika Gupta, Advocates.

**CORAM:**
**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**[Hearing held through video conferencing]**

**VIBHU BAKHRU, J.** ***(ORAL)***

**IA No. 3129/2020 & IA No. 2945/2020**

1. The has filed the above captioned application (IA No. 2945/2020) seeking condonation of delay of eighty-six days in filing of the written statement by the applicant/defendant.

2. The plaintiff has also filed an application (IA No. 3129/2020) for removing the defendant's written statement and documents filed along with it from the record, on the ground that the same has been filed beyond the period as stipulated under Chapter-VII of the Delhi

High Court (Original Side) Rules, 2018 (hereafter 'DHC Rules')

3. Thus, the principal issue involved in these applications is common – whether the delay in filing of the written statement ought to be condoned.

4. At this stage, before proceeding further, it would be relevant to set out the context for addressing the controversy.

5. The plaintiff has instituted the above captioned suit seeking a decree of permanent injunction restraining the defendant from publishing/sending/circulating/pasting/propagating any kind of abusive, threatening, intimidating or defamatory content in any manner. The plaintiff also seeks a decree restraining the defendant from entering into his work place, court room and chambers and all other places where he is required to be present for discharge of his official duties. In addition, the plaintiff also seeks damages against the defendant.

6. The said suit was listed before the Court on 30.08.2019. On that date, this Court directed issuance of summons as well as notice of the applications filed by the plaintiff seeking interim relief under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure, 1908 (hereafter 'CPC') [IA 11932/2020]. The summons were directed to be served by all modes, including *dasti* as well as electronic modes, returnable on 16.09.2019 The Court also found that the plaintiff had made out a case for an ex-parte *ad-interim* injunction and accordingly, passed *ad-interim* orders in the following terms:-

"6. The defendant, till the next date of hearing, is restrained (i) from publishing/sending/circulating/posting/propagating any kind of abusive or threatening or intimidating or defamatory content in any manner whatsoever, either by print or electronically, to the plaintiff or to the plaintiff's relatives, friends, staff, colleagues and their spouses as well as other residents of Saket Court Residential Complex; and, (ii) from visiting the workplace of the plaintiff and more specifically from entering the court room and chamber and all other places where the plaintiff has to be present in discharge of his official duties.

7. It is however made clear that the aforesaid order will not amount to a restraint in any manner whatsoever on the defendant taking/defending legal proceedings and/or taking any steps in aid thereof.

8. It is further ordered that the plaintiff also, till the next date of hearing, shall not publish/send/circulate/post/propagate any kind of abusive or threatening or intimidating or defamatory content in any manner whatsoever, either by print or electronically to the defendant or to the defendant's relatives and friends and shall not visit any place where the defendant works or visits in the normal course. However again, this would not amount to a restraint in any manner on the plaintiff from taking/defending legal proceedings and/or taking any steps in aid thereof.

9. Provisions of Order XXXIX Rule 3 of the Code of Civil Procedure, 1908 (CPC) be complied forthwith.

10. *Dasti* under signatures of the Court Master."

7. The copy of the suit and the application preferred under Order XXXIX Rule 1 & 2 of the CPC was served on the defendant on 05.09.2019. The counsel for the plaintiff also served the plaint, the said application and the order dated 30.08.2019 by electronic mode (e-mail) to the defendant on 12.09.2019. Although, the plaintiff contends that the summons were served on the defendant on 05.09.2019 by speed post and on 12.09.2019 by electronic modes, however this was disputed by the defendant.

8. Although, the defendant had admitted in its application that summons were served as foresaid, it is now contended that the advocate, with whose assistance the said application was drafted was not aware of the Original Side practice and therefore, had erroneously drafted that the summons were served. However, it is not disputed that the defendant was served with a copy of the plaint as well as the application under Order XXXIX Rule 1 & 2 CPC on 05.09.2019 and once again by email on 12.09.2019.

9. The matter was thereafter taken up by the Court on 16.09.2019. The defendant was duly represented by counsel including a Senior Advocate. On that date, the learned Senior Counsel appearing for the defendant submitted that the disputes between the parties should be resolved amicably and the counsel for the plaintiff concurred with the same. In view of the above, the Court adjourned the hearing to 23.09.2019 and directed that the same be listed in Chambers.

10. On 23.09.2019, a Coordinate Bench of this Court met the parties along with their counsel in Chambers. This was obviously with a view to explore the possibility of an amicable settlement. The matter was thereafter directed to be listed on 27.09.2019. The order passed on 23.09.2019 records that the '*substantial parleys have been held inter se the counsels, with the counsels and also individually with the parties'*. The matter was thereafter directed to be listed on 01.10.2019. The order passed on that date records that *"Further parleys have been held with the counsels"* and at the request of the parties, the matter was directed to be listed on 15.10.2019. The matter was not taken up on 15.10.2019 and was re-notified on 22.10.2019 as the Court was not sitting on that date.

11. On 22.10.2019, the Court recorded that *"the senior counsel for the defendant states that no settlement is possible and the matter may be posted for hearing"*. The Court noticed that the pleadings had not been completed till then and accordingly directed that the written statement be filed within a period of four weeks as sought by the defendant. Replication was directed to be filed within a period of four weeks thereafter.

12. Thereafter, on 14.11.2019 the defendant filed an application under Order VII Rule 11 of CPC, *inter alia*, praying that the plaint be rejected. The defendant further prayed that leave be granted to the applicant (defendant) to file the written statement only in the event that her application was rejected. The defendant's prayers were not acceded to and by a judgment dated 18.11.2019, the defendant's

application was dismissed as unmerited.

13. The defendant filed an appeal against the said judgment dated 18.11.2019 before the Division Bench of this Court [FAO (OS) 262/2019]. While the appeal was pending, the defendant filed the written statement on 15.02.2020 along with the application (IA No. 2945/2020), seeking condonation of delay in filing the same.

14. Mr Gupta, learned counsel appearing for the plaintiff submitted that the written statement was filed beyond the period of 120 days from the receipt of summons and therefore, the delay in filing the same could not be condoned. He referred to Rule 4 of Chapter-VII of the DHC Rules and submitted that although the court could condone the delay for a period of 90 days, the delay beyond the said period cannot be condoned. He further submitted that in any event, the defendant had not established that she was prevented by sufficient cause from filing the written statement within the period as stipulated in Rule 4 of the DHC Rules.

15. Mr Hrishikesh Baruah, learned counsel appearing for the defendant countered the aforesaid submissions. First, he submitted that in non commercial suits, the Court had the discretion to condone the delay in filing the written statement even beyond the period as prescribed under Order VIII Rule 1 of CPC. He referred to the decision of the Supreme Court in ***Desh Raj v. Balkishan (Dead) through proposed Legal Representative Ms Rohini : (2020) 2 SCC 708*** in support of his contention.

16. Second, he submitted that there was no delay in filing of the written statement as the defendant had not been served with the summons in the suit. He submitted that the time for filing the written statement would commence only on service of summons, which in the present case had not been done. He stated that the plaintiff had erroneously stated in the applications that the summons had been effected by speed post on 05.09.2019. However, on further enquiries from the Registry, it was found that the summons were not issued till 07.09.2019. Further, notings as available on the records of the Registry indicate that the said summons remained unserved. Next, he submitted that the service of summons through email by the counsel for the plaintiff was also not in accordance with law. He submitted that service through electronic mails was required to the effected in accordance with the Delhi Courts Service of Processes by Courier, Fax and Electronic Mail Service (Civil Proceedings) Rules, 2010. He stated that in terms of Rule 12 of the said Rules, a party desiring to send process through email is required to submit an affidavit providing the email address to the Court and only the presiding officer or any officer authorized can issue the email on the designated templates. He submitted that in the present case no affidavit had been filed on behalf of the plaintiff in terms of Rule 12 of the said Rules and therefore, service of summons by the counsel for the plaintiff was no service in law.

17. He contended that the summons in the present case would be deemed to have been served on 22.10.2019 when the Court had

directed the defendant to file the written statement within a period of four weeks. He referred to the decision of the coordinate bench of this Court in ***Red Bull AG v Pepsico India Holdings Pvt. Ltd. & Anr. : 2019 (177) DRJ 398*** and submitted that mere appearance on behalf of the defendant before the Court would not constitute receipt of summons.

18. Third, he submitted that the records indicated that the parties were also endeavouring to resolve the disputes amicably and therefore, time spent by them in such endeavour was required to be excluded. He submitted that from 16.09.2019 to 22.10.2019, this Court was exploring the possibility of an amicable settlement between the parties and therefore, the said period was required to be excluded. He stated that even before the Division Bench, parties had been called by the Bench in order to explore the possibility of an amicable settlement between the parties.

19. Fourth, he submitted that the defendant had filed an application under Order VII Rule 11 CPC seeking rejection of the plaint. In the said application, the defendant had prayed that she be permitted to file a written statement only after the decision in the said application. The said application was dismissed on 18.11.2019 but thereafter, the defendant had preferred an appeal and while the said appeal was pending before the Division Bench, the defendent had filed the written statement. The said appeal was rejected on 12.03.2020.

20. I have heard the learned counsel appearing for the parties.

21. At the outset, it is relevant to refer to Rule 4 of the DHC (OS) Rules. The same is set out below:-

> "**4. Extension of time for filing written statement**. – If the Court is satisfied that the defendant was prevented by sufficient cause for exceptional and unavoidable reasons in filing the written statement within 30 days, it may extend thereafter. For such extension of time, the party in delay shall be burdened with costs as deemed appropriate. The written statement shall not be taken on record unless such costs have been paid/deposited. In case the defendant fails to file the affidavit of admission/denial of documents filed by the plaintiff, the documents filed by the plaintiff shall be deemed to be admitted. In case, no written statement is filed within the extended time also, the Registrar may pass orders for closing the right to file the written statement."

22. It is clear from the above that this Court has limited discretions in condoning the delay in filing of the written statement. The same can be condoned only for a period of 90 days '*but not thereafter*'. This issue is no longer *res integra* in view of the decision of the Division Bench of this Court in ***Ram Sarup Lugani and Another v. Nirmal Lugani and Others : 2020 SCC OnLine Del 1353***. It is also relevant to mention that the Division Bench had also clarified that the decision of the Supreme Court in ***Desh Raj v Balkishan*** (*Supra*) would not be applicable as in that case, the Supreme Court had no occasion to

examine the Delhi High Court Rules.

23. In ***Desh Raj's*** case, the Supreme Court had clearly held that the time lines provided for filing of the written statement in a non-commercial suit were only directory and not mandatory. It was earnestly contended by Mr Baruah that the said standard would be equally applicable in interpreting Rule 4 of the DHC (OS) Rules. The said contention cannot be accepted as the decision of the Division Bench in ***Ram Sarup Lugani*** (*supra*) is unambiguous. The Division Bench of this Court had interpreted the words '*but not thereafter*' as used in Rule 4 of the DHC(OS) Rules, as limiting the jurisdiction of this Court to condone the delay only to the period as mentioned, which in the case of written statement is 90 days. The court had also considered the decision of the Supreme Court in ***Desh Raj v Balkishan*** (*Supra*). The decision in ***Ram Sarup Lugani*** (*supra*) is binding on this Court.

24. The contention that the defendant has not received the summons also cannot be accepted. First of all, it is relevant to note that the defendant in her application (IA 2945/2020) had expressly stated that the summons were effected through speed post on 05.09.2019 and the electronic service was effected by way of an email dated 12.09.2019 by the learned counsel for the plaintiff. There is a clear admission that the defendant had received the summons on 05.09.2019 and by email on 12.09.2019. It is only as a matter of afterthought that the defendant had conducted an inspection of the records available with the Registry of this Court and has built up a case of non-receipt of summons on the

basis of the notings made in the records of the Registry. Having affirmed that she had received the summons, it is not open for the defendant to contend that she had not received them. Second, there is no dispute that the defendant had received a copy of the plaint along with the copy of the order passed by this Court as well as the documents filed by the plaintiff. The defendant had also received the same by email. The returnable date for the summons was 16.09.2019 and on that date, the defendant was present in Court. She was fully aware of the case against her as well as, the fact that the Court had by the order dated 31.08.2019 directed issuance of summons and had passed *ad-interim* orders. The defendant thus had full knowledge of the case instituted against her and that she was required to answer the claims. According to Mr Baruah, the summons were deemed to be served on 22.10.2019 when this Court directed the written statement to be filed. Plainly, the defendant cannot decide as to when the summons are deemed to be served on her. The defendant was fully aware of the order dated 30.08.2019 passed by this Court whereby this Court had directed issuance of summons and had passed *ad-interim* relief. She was also aware that she had received copy of the plaint and the application along with the documents filed by the plaintiff pursuant to the orders passed by this court. She had thereafter appeared before this Court on 16.09.2019. This is sufficient to hold that the summons are deemed to have been served on her at least on 16.09.2019.

25. The defendant now claims that she had erroneously admitted in the application filed by her that she had received the summons on

05.09.2019 by speed post and by email on 12.09.2019. This is on account of an erroneous understanding by her counsel who although was familiar with the appellate side procedure in the Supreme Court, but has no knowledge of the proceedings on the Original Side. Plainly, this Court finds it difficult to accept the said explanation. Even if, the defendant is permitted to resile from her solemn affirmation of having received the summons on 05.09.2019 and on 12.09.2019, it is clear that the summons were deemed to have been served when she appeared along with her counsel and a Senior Counsel on 16.09.2019

26. Third, the manner as to how summons can be served is not inflexible. At this stage, it is also relevant to refer to Section 27 of CPC which reads as under:-

> "27. Where a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and may be served in manner prescribed [on such day not beyond thirty days from date of the institution of the suit]."

27. It is apparent from the above that where a suit is being instituted and summons have been issued, the same *'may'* be served in the manner prescribed. Thus, it is not necessary that the summons can only be served in the manner as prescribed and any defect or irregularity in the same would render the summons as *non-est*. Clearly, the intention is that the defendant must be provided with the plaint and the documents filed by the plaintiff in order for the defendant to

answer for the same. Undisputedly, the said condition has been met in this case.

28. The reliance placed by Mr Baruah on the decision of a coordinate Bench of this Court in ***Red Bull AG v. Pepsico India Holdings Pvt. Ltd. & Anr.*** (supra) is misplaced. In that case the suit came up for hearing before the Court for the first time on 28.08.2018. Although, no summons had been issued to the defendants, the defendants had entered appearance on that date. The Court noted that the defendant may have entered appearance on noticing the matter in the cause list on the first date of hearing. On the first date of hearing, the plaintiff requested for an adjournment on the ground that there was a possibility of settlement between the parties. On the next date of hearing, that is, on 29.04.2019 the parties had submitted that they would try and settle the matter through Mediation and were accordingly directed to appear before the Delhi High Court Mediation and Conciliation Centre. The mediation proceedings failed on 28.11.2018 and the defendants filed the written statement on 06.03.2019. In the given facts, the Court found that there was no formal order issuing summons to the defendants or directing them to file the written statement. The Court referred to the provisions of Order V Rule (1) and Order VII Rule (5) of CPC as well as Chapter 4 Rule 7 and Chapter 6 Rule 1(f) of the DHC (OS) Rules and observed as under:-

> "Perusal of the aforesaid statutory provisions would show that when a suit is instituted, summons may

> be issued to the defendant to appear and answer the claim. Hence, the Court has to ensure that the suit has been duly instituted and thereafter the Court may issue summons on the defendant."

29. The Court noticed that there were no formal orders issuing summons. It further held as under:-

> "A perusal of the orders of this court dated 28.08.2018 and 24.09.2018 do not lead to a conclusion that any finding was recorded by the court that the suit has been duly instituted and the defendant should now answer the claim and file the written statement in his defence. Further no conclusion can be reached from the reading of the two orders that the defendant has by his conduct waived his right to have the summons served upon him. The orders on the contrary indicate that that instead of the adjudicatory process, for the time being, the parties had adopted a mechanism to settle the matter, firstly by their own efforts, and thereafter through a formal process of mediation which was to be undertaken under the aegis of the Delhi High Court Mediation and Conciliation Centre."

30. In the present case, there is no ambiguity in the order dated 30.08.2019. The Court had examined the plaint; directed issuance of summons; and also passed *ad-interim* orders. Clearly, the defendant could be in no doubt that the court had found that the suit was properly

instituted and she was required to answer the plaint. Thus, the summons stood served on her at least when she appeared before the court on 16.09.2019. This Court is unable to accept that the summons were deemed to have been served only on 22.10.2019, when time was sought on her behalf to file a written statement and not earlier.

31. In view of the above, it is clear that the time of 30 days for filing of the written statement expired on 04.10.2019. In any view, the defendant is deemed to have been served on 16.09.2019 and therefore, the period for filing of the written statement expired on 15.10.2019.

32. However, the parties were attempting to resolve their disputes as is evident from the orders passed by this Court on 16.09.2019, 23.09.2019, 27.09.2019, 01.10.2019 and 22.10.2019. Thus, there is a good ground to condone the delay in filing of the written statement commencing for the period till 36 days , that is, till 22.10.2019.

33. In fact, this Court on 26.10.2019 granted the defendant four weeks time to file the written statement "*as sought*". Thus, the order dated 22.10.2019, clearly does indicate that the defendant had sought four weeks time to file the written statement, which was granted. There was thus, no occasion for the defendant thereafter, to refrain from filing the written statement within the period as granted.

34. The contention that the delay in filing the written statement is liable to be condoned because the defendant had filed an application under Order VII Rule 11 CPC is also unpersuasive. It is relevant note that in its application under Order VII Rule 11 CPC (IA No.

15976/2019), the defendant had, *inter alia*, prayed that leave be granted to her to file the written statement only in the event the said application is rejected by this Court. The said prayer is made on the strength of the averments as contained in Paragraph 16 of the said application and the same is set out below:-

> "16. The Applicant states and submits that the established legal position is this that in order to decide an application under Order VII Rule 11(d) of the CPC, the averments in the plaint are germane; the pleas taken by the Defendant in the Written Statement is wholly irrelevant at that stage. In these circumstances, the Applicant seeks leave of this Hon'ble Court to file the Written Statement only in the event that the present application is rejected by this Hon'ble Court."

35. Plainly, the reason that defendant's application under Order VII Rule 11 of CPC could have been considered without reference to a written statement did not by any means absolve her to file the written statement as directed. More importantly, no such prayer was granted. The order dated 18.11.2019, whereby the said application was rejected does not indicate that the learned counsel for the defendant had even pressed for the aforesaid relief. Clearly, by making a prayer before the Court, the defendant could not have proceeded on the basis that the same stood allowed or it provided her a good ground to refrain from filing the Written Statement.

36. As noticed above, the said application (IA 15976/2019) was rejected by a judgment dated 18.11.2019. The defendant claims that the said judgment was uploaded on the website of this Court on 24.11.2019. However, the defendant did not file the written statement immediately thereafter either.

37. The written statement has been filed on 15.02.2020. This was beyond the period one hundred and twenty days from the date of receipt of summons. It was also beyond the period of one hundred and twenty days from the date from 16.09.2019.

38. Mr Baruah's contention that the defendant could not have been expected to file the written statement while the parties were endeavouring to resolve the disputes amicably, is merited. As noticed above, the same is a sufficient ground for condoning the delay in filing the written statement. In ***Red Bull AG v Pepsico India Holdings Pvt. Ltd & Anr***. (*Supra*); ***Dr Sukhdev Singh Gambhir v Shri Amrit Pal Singh & Others : 105 (2003) DLT 184; Telefonaktiebolaget L. M. Ericsson v Lava International Limited : 226 (2016) DLT 342*** this court had condoned the delays on account of the time spent by the parties in endeavouring to resolve the disputes in Mediation. However, the time spent by the parties in Mediation cannot be excluded from the time stipulated for filing of the written statement or replication. As noticed above, the defendant is required to file the written statement within a period of thirty days from the date of receipt of summons. This Court can condone a delay of ninety days beyond that period provided that the defendant satisfies this Court that it was prevented

by '*sufficient cause for exceptional and unavoidable reason*' in filing the written statement within the period of 30 days. The fact that the parties were attempting to resolve the disputes would be a sufficient cause to condone the delay. However, the Court cannot condone the delay beyond the period of ninety days days as stipulated under Rule 4 of DHC(OS) Rules. There is no provision to the aforesaid effect. Once it has been held that the provisions of Rule 4 of DHC(OS) Rules are mandatory and, the Court does not have jurisdiction to condone the delay beyond a period of ninety days as has been held by the Division Bench of this Court in ***Ram Sarup Lugani and Another*** (*supra*), the question of condoning the delay beyond that period for any reason whatsoever is not permissible.

39. This Court is unable to accept the contention that the delay in filing the written statement on the part of the defendant can be condoned.

40. Having stated the above, this Court also considers it apposite to consider the question whether the delay ought to have been condoned for the reasons as provided by the defendant. As noticed above, the defendant had sought four weeks time to file the written statement which was granted by this Court on 22.10.2019. Despite being granted the time as sought for, the defendant did not file the written statement within the said period of four weeks. But, she did file an application under Order VII Rule 11 CPC praying that she be granted leave to file the written statement if and when the application was dismissed. As noticed above, this prayer was not pressed. But the defendant did not

file the written statement. The application was dismissed on 18.11.2019. Even thereafter, the defendant did not file the written statement within the period of four weeks. The defendant's application seeking condonation of delay was rejected on 18.11.2019. However, the defendant did not file the written statement immediately thereafter or within a period of four weeks as had been sought earlier.

41. The application filed by the defendant provides no explanation or any exceptional circumstances which prevented her from filing the written statement. However, the defendant had sought to explain the delay by stating that the certified copy of the order dated 18.11.2019 was made available to her on 20.12.2019 and she preferred an appeal immediately thereafter on 21.12.2019. It is difficult to appreciate as to how that prevented her from filing the written statement within the said period. The defendant had the advice of counsel and a senior counsel and, obviously had the wherewithal to file the written statement. In fact, she preferred an appeal against the order dated 18.11.2019 immediately within a period of one day from receiving the certified copy, that is on 21.12.2019. Thus, there is no ground for her not to have filed the written statement prior to that date.

42. Indisputably, the defendant was aware on 18.11.2019 that her application under Order VII Rule 11 CPC had been dismissed, even though, the copy of the order may have been uploaded on the website of this Court on 05.12.2019 (as claimed by her). The application indicates that the defendant had proceeded on the basis that her filing an appeal against the order dated 18.11.2019 would also absolve her

from the requirement from filing the written statement.

43. Next, the defendant states that her appeal (FAO (OS) 262/2019) was listed before the Division Bench of this Court on 24.12.2019 but was adjourned to 15.01.2020. The defendant claims that on 24.12.2019, the Bench had suggested to the parties to settle their disputes again. The order dated 24.12.2019 passed by the Division Bench of this Court in proceedings relating to FAO (OS) 262/2019 does not indicate any such suggestion. The defendant further states that the parties had met on two occasions to discuss the possible resolution after 24.12.2019 but, they could not arrive at any such amicable resolution and the said fact was brought to the knowledge of the Division Bench. Thereafter, the defendant's appeal was listed before the Division Bench on multiple occasions but could not be taken up for hearing because some of the Judges had recused themselves from hearing the matter.

44. As to how these facts afford the defendant any ground for seeking condonation of delay, is difficult to accept.

45. It is also important to note that the defendant had averred that for the reasons stated in the application, she had refrained from filing the Written Statement. Thus, she was not prevented from doing so but had deliberately delayed filing the Written Statement. It is important to refer to the language of Rule 4 of the DHC(OS) Rules which expressly stipulates that the Court must be satisfied that the defendant was prevented from a sufficient cause for exceptional and unavoidable

reasons. First of all, there are no exceptional or unavoidable reasons that prevented the defendant from filing the written statement within the period of four weeks as sought for and as granted by the Court on 22.10.2019. Even assuming (which this court does not accept) that the defendant had laboured under a belief that since she had sought for a prayer in an application, it had automatically provided her a cause not to file the written statement, however, there was nothing to prevent the defendant from filing a written statement within a period of four weeks immediately after her application under Order VII Rule 11 was dismissed on 18.11.2019 or within a period of four weeks thereafter.

46. Rule 4 of the DHC Rules is a rule of procedure and insofar as expedient, a liberal view in condoning the delay ought to be taken by the Court, however, that does not mean that the said Rule can be completely ignored or should be interpreted to render it meaningless. In the present case, even if it is accepted that this Court has the jurisdiction to condone the delay in filing the written statement beyond a period of 90 days (which this court does not), there are grounds for doing so in this case.

47. Thus, even if Mr Barhua's contention that the defendant was deemed to have been served with the summons on 22.10.2019 is accepted (which as stated above, this court does not), there are no grounds for condoning the delay beyond a period of 30 days from that date.

48. In view of the above, the defendant's application IA 2945/2020

seeking condonation of delay in filing the written statement is rejected. Consequently, the plaintiff's application for removing the written statement on record and documents filed therewith is allowed.

**VIBHU BAKHRU, J**

**APRIL 12, 2021**
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