HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 17249/2026
CNR: RJHC020815672026 | URN: CW / 36025U / 2026

Dwarka Prasad Son Of Late Shri Sitaram, Aged About 68 Years, Resident Of Village Ramchandrapura, Tehsil Sanganer, District Jaipur.

----Petitioner

Versus

1 Durgalal Son Of Late Shri Sitaram,

2 Chiranjilal Son Of Late Shri Sitaram,

3 Jamanlal Son Of Late Shri Sitaram,

4 Ramavtar Son Of Shri Durgalal,

5 Gajendra Son Of Shri Ramavtar,

6 Babulal Son Of Shri Chiranjilal,

7 Vishnu Son Of Chiranjilal,

8 Bhori Devi Wife Of Shri Durgalal,

9 Smt. Puran Devi Wife Of Shri Chiranjilal,
All Resident Of Village Ramchandrapura, Tehsil Sanganer, District Jaipur

10 Station House Officer, Police Station Shivdaspura, Jaipur.

----Respondents

For Petitioner(s) : Mr. Prahlad Sharma
For Respondent(s) :

HON'BLE MR. JUSTICE SUDESH BANSAL
Order

02/09/2026
REPORTABLE

1. Petitioner-plaintiff has preferred this civil writ petition under Article 227 of the Constitution of India, assailing the order dated 06.08.2026, passed by the Additional Civil Judge No.17, Jaipur Metropolitan-I, Headquarter Sanganer in Civil Suit No. 308/2021, whereby and whereunder delay in filing the written statement by defendant No.3-Jamanlal has been condoned and his written

statement has been permitted to be taken on record subject to deposition of the cost of Rs. 1000/- in the Legal Aid.

2. Having heard learned counsel for the petitioner and from the record, it appears that petitioner filed a civil suit for permanent injunction on 11.06.2021, wherein as many as 10 defendants were impleaded including SHO, Shivdaspura as defendant No.10. The prayer of petitioner is for issuance of a decree of permanent injunction against defendants No. 1 to 9 is common and similar. For ready reference, a prayer made by the petitioner in his civil suit is being reproduced as under:-

> "अतः वाद पत्र प्रस्तुत कर निवेदन है कि वादी विरूद्ध प्रतिवादीगण निम्न प्रकार डिक्री फरमाया जावे किः—
>
> (क) प्रतिवादीगण संख्या 1 लगायत 9 को जरिये स्थायी निषेधाज्ञा से पाबन्द फरमाया जावे कि प्रतिवादीगण संख्या 1 लगायत 9 वादी की स्वामित्व की आबादी भूमि जो वाद पत्र के पैरा संख्या 1 में वर्णित है में किसी प्रकार से निर्माण कार्य कर कब्जा नही करे, वादी को बेदखल नही करे ना ही वादी के उपयोग उपभोग मे किसी प्रकार की बाधा कारित करे तथा प्रतिवादी संख्या 10 को जरिये स्थायी निषेधाज्ञा से पाबन्द फरमाया जावे कि वह वादी को जबरन बेदखल करने की कार्यवाही मे सहयोग प्रदान नही करें।
>
> (ख) यह कि वाद व्यय प्रतिवादीगण से वादी को दिलवाया जावे।
>
> (ग) अन्य कोई अनुतोष जो माननीय न्यायालय उचित समझे वादी को प्रतिवादीगण से दिलवाया जावें।"

3. It has *inter alia* been pointed out that the trial Court held the service of summons upon all the defendants sufficient in the order-sheet dated 15.06.2021 and on that day, respective counsels for defendants Nos. 1, 2 and 4 to 10 except defendant No.3 put in appearance and submitted their Vakalatnama. For defendant No.3, trial Court noted that no one has put in appearance on his behalf, but no order to proceed ex-parte against defendant No. 3 was passed.

4. It has further been pointed out that thereafter defendant No. 1 has filed written statement on 27.10.2021 but written statement

by and on behalf of other defendants have not yet been filed rather since defendant no.2 has filed an application under Order 7 Rule 11 CPC, therefore, the proceedings in the suit are pending, for hearing on the application under Order 7 Rule 11 CPC, and for awaiting written statements of other defendants.

5. It appears that at this stage of proceedings, on behalf of defendant No.3, an Advocate put in appearance on 21.01.2026 in the proceedings of present civil suit and filed one application under Order 9 Rule 7 CPC, but later-on, withdrew that application on next date i.e. 12.03.2026 for the reason that no order to proceed ex-parte against defendant No. 3 was ever passed by the trial Court.

6. Thereafter, on behalf of defendant No.3, written statement was submitted on 23.04.2026 along with an application seeking condonation of delay in filing the written statement. Learned trial Court, vide order impugned dated 06.08.2026 has condoned the delay and permitted the written statement, submitted by defendant No.3, to be taken on record, hence, thereagainst instant writ petition has been filed by petitioner-plaintiff.

7. Learned counsel for the petitioner vehemently argued that no sufficient reason has been assigned by defendant No.3 for filing the written statement belated and beyond the statutory timeline as prescribed under Order 8 Rule 1 CPC, hence, the trial Court erred in condoning the delay and taking his written statement on record.

8. In support of his submission, reliance has been placed by counsel for petitioner on the judgment of Hon’ble Supreme Court

in case of **Desh Raj Vs. Balkishan (D) thr. proposed LR Ms. Rohini [2020 (2) SCC 708].**

9. Heard. Considered.

10. Hon'ble Supreme Court, in the celebrated judgment delivered in case of **Kailash Vs. Nanhku and Ors. [AIR 2005 SC 2441],** considered the issue in question extensively and expounded that under the provision of Order 8 Rule 1 CPC, fixing time schedule for filing of written statement, are directory in nature and not mandatory. It was further observed that the purpose of providing the time schedule for filing the written statement under Order 8 Rule 1 CPC is to expedite and not to scuttle the hearing. It was further held that the power of Court to extend time for filing the written statement, beyond the time schedule provided under Order 8 Rule 1 CPC is not completely taken away.

11. As regards the timeline for filing the written statement in a non-commercial dispute, the issue again came up for consideration by the Hon'ble Supreme Court, in case of **Atcom Technologies Ltd. Vs. Y.A. Chunawala and Company and Ors. [2018 (6) SCC 639]**, wherein after detailed discussion, it was held that the proviso to Order 8 Rule 1 CPC enables the Court to extend the period of 30 days prescribed under Rule 1 upto 90 days from the date of service of summons for filing the written statement for sufficient reason. Although, simultaneously, it was also held that the power of Court to accept the written statement beyond the timeline, as prescribed under Order 8 Rule 1 CPC, has not been taken away because the provision is in the domain of procedural law and not a part of substantial law, hence, is directory in nature and not mandatory.

12. In the judgment of Hon'ble Supreme Court delivered in case of **Desh Raj (supra),** whereupon counsel for the petitioner has relied upon, the proposition of law and *ratio decidendi,* as expounded herein in case of **Kailash (supra)** and **Atcom Technologies Ltd. (supra)** has been followed and reiterated, however, the Hon'ble Supreme Court has observed that a routine condonation and cavalier attitude towards the process of law may not be encouraged as same adversely affects the administration of justice.

13. Thus, it is well settled that the Court has power and jurisdiction to condone the delay and to take written statement on record even beyond the time schedule, as provided under Order 8 Rule 1 CPC, particularly in the non-commercial disputes (though no such power lie with the Court in respect of commercial dispute) but obviously, subject to assigning reasoned justification or explanation of delay in filing written statement.

14. In the case at hand, although the trial Court held the service of summons upon the defendant No.3 to be not sufficient, as noted in the order-sheet dated 15.06.2021, however, it is noteworthy that neither any adverse order against defendant No.3, to proceed ex-parte, nor to the effect of forfeiting his right to file written statement was ever passed. Furthermore, it has transpired that on account of not filing the written statement by defendant No.3 within the prescribed time schedule, the proceedings of present civil suit have not been withheld, rather the proceedings are pending at the stage of hearing on the application under Order 7 Rule 11 CPC, submitted by defendant No.2. The civil suit, filed by petitioner is in the nature of seeking a

common decree of permanent injunction against defendants no. 1 to 9 and if there is any delay in proceedings of suit, same is not attributable to defendant no.3. In the application, defendant no.3 took a stand that the proceedings of present civil suit were not in his knowledge and as soon as he came to know, he immediately filed application under Order 9 Rule 7 CPC but since neither ex-parte proceedings were drawn against him nor his right to submit written statements has been forfeited, hence, he submitted his written statement and prayed to condone the delay, for taking written statement on record.

15. It is true that in the non-commercial dispute, sufficient reason or justified explanation must be assigned by the parties, for seeking permission to submit written statement on record, after expiry of statutory time schedule as envisaged under Order 8 Rule 1 CPC, nevertheless there cannot be any straitjacket formula nor specific categories of reasons can be classified, because reasons may differ in case to case, hence, the explanation or reasons can be considered on the basis of facts and circumstances of each case, subject to satisfaction of the Court as to when permit or deny by the Court, to take written statement on record, if submitted after expiry of the time schedule. It may be observed here that the Court while considering the reasons or explanation of delay in filing written statement should also keep in mind the aim and object of legislature for prescribing the time schedule to submit written statement.

16. In the case at hand, considering the peculiar factual matrix taken note of hereinabove, this Court is of the opinion that the reasons assigned by the defendant No.3, to condone the delay in

filing the written statement are not required to be considered in a rigid, strict and stringent manner rather sufficient reason can be considered in a flexible manner, more particularly when in the present civil suit, the aim and object for prescribing the time schedule to file written statement under Order 8 Rule 1 CPC, has not been frustrated in any manner by allowing the written statement of defendant No.3 on record, after expiry of the statutory time schedule. This Court finds that trial Court has not committed any manifest error or patent illegality or jurisdictional error in exercising its jurisdiction to condone the delay in filing written statement by defendant no.3.

17. In the opinion of this Court, no substantial prejudice is caused to the plaintiff by allowing to take written statement of defendant No.3 on record nor the impugned order leads to any miscarriage of justice or travels dehors to the proposition of law, as discussed and referred hereinabove.

18. As a result, the instant writ petition is hereby dismissed.

19. Stay application and all pending application(s), if any, also stand disposed of.

(SUDESH BANSAL),J

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