



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment Reserved on: 24.07.2026*
Judgment Delivered on: 31.07.2026

+ CS(COMM) 384/2024 & I.A. Nos. 10781/2024, 10783/2024,
31189/2024 & 40882/2024

M/S SHRINATH TRAVEL AGENCY & ORS.Plaintiffs

Versus

M/S SHREENATH CARGO MOVERS & ORS.....Defendants

Advocates who appeared in this case

For the Plaintiffs : Mr. Tejveer Singh Bhatia and Mr.
Kiratraj Sadana, Advocates.

For the Defendants : Ms. Mansha Mehta, Advocate for D-1
and D-2.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

OA No.108/2025

1. The present Appeal has been filed by the Plaintiffs under Rule 5 of Chapter II of the Delhi High Court (Original Side) Rules, 2018 (“**DHC Rules**”) against the Order dated 20.05.2025 (“**Impugned Order**”) passed by the learned Joint Registrar (Judicial) of this Court in CS(COMM) No. 384/2024 whereby the Plaintiffs’ right to file the Replication *qua* the Written Statement filed by Defendant No. 1 (“**Replication**”) was closed.



SUBMISSIONS ON BEHALF OF THE PLAINTIFFS

2. The learned Counsel for the Plaintiffs made the following submissions:
 - 2.1 Written Statement on behalf of Defendant No. 1 was taken on record *vide* order dated 13.08.2024, and the Plaintiffs were directed to file the Replication in accordance with law, i.e., within a period of 30 days. Accordingly, the Plaintiffs were required to file the Replication on or before 12.09.2024. However, the same was filed on 24.09.2024, with a delay of only 11 days. The said delay occurred as the Written Statement filed by Defendant No. 1 comprised more than 100 pages and contained various factual averments which required verification prior to the filing of the Replication.
 - 2.2 The Plaintiffs filed the Replication along with an Application for Condonation of the Delay (“**Application**”). However, owing to certain defects in the Application, the same could not be brought on record, as recorded in the order dated 24.10.2024. Subsequently, new counsel was engaged by the Plaintiffs on 11.12.2024, which resulted in a delay in curing the defects in the Application. The delay in curing the defects was neither deliberate nor intentional, but occurred due to an inadvertent *bona fide* error, as the original hard copy of the Application was not traceable.
 - 2.3 The Plaintiffs, under a *bona fide* belief, had filed the Replication as well as the Application within the requisite time. However,



the same could not be brought on record. The error on the part of the Plaintiffs was *bona fide*, and no *mala fide* intent can be attributed to them.

- 2.4 In ***Kal Airways Private Limited v. Spicejet Limited & Anr.***, 2025 SCC OnLine Del 3737, this Court held that courts should ordinarily adopt an expansive approach while considering applications for condonation of delay in re-filing. It was further held that delay in re-filing is to be treated with a lighter hand, since delay in removing objections is generally attributable to counsel and is, at best, a ministerial act. This Court further observed that, in cases of delay in re-filing, the opposite party is put to notice that certain filings are required to be completed, and that delay in re-filing should be dealt with firmly only where there is a complete lack of *bona fides* or where an unsuccessful litigant seeks to keep the successful litigant in Court by taking a gamble.
- 2.5 No advantage has been derived by the Plaintiffs from the delay in filing the Replication. On the contrary, as there is no interim order operating against the Defendants, any delay is prejudicial to the Plaintiffs. The reasons for the delay in re-filing are wholly *bona fide* and were beyond the control of the Plaintiffs.
- 2.6 The submission advanced on behalf of Defendant Nos. 1 and 2 that two Replications were filed by the Plaintiffs, one on 26.09.2024 and another allegedly on 05.11.2024, is wholly misconceived. Only one Replication was filed by the Plaintiffs,



and different e-diary numbers were assigned by the Registry of this Court, which cannot be attributed to the Plaintiffs.

- 2.7 Accordingly, the present Original Appeal deserves to be allowed, the Impugned Order deserves to be set aside, and the Replication may be taken on record.

SUBMISSIONS ON BEHALF OF DEFENDANT NOS. 1 AND 2

3. The learned Counsel for Defendant Nos. 1 and 2 made the following submissions:

- 3.1 As per the case history available on the website of this Court, the Replication by the Plaintiffs was first filed on 26.09.2024, along with the Application, on the 44th day from the date on which the Written Statement of Defendant No. 1 was taken on record. However, the Replication remained under defects. In terms of Chapter IV Rule 3 of the DHC Rules, the Plaintiffs were required to cure the defects within seven days at a time and within an aggregate period of 30 days. The Plaintiffs failed to comply with the said requirement.
- 3.2 The learned Joint Registrar, by order dated 24.10.2024, observed that even after 27 days from the filing of the Replication, the same continued to remain under defects and that the defects were required to be cured by the Plaintiffs. The same Replication was, thereafter, re-filed on 05.11.2024 *vide* diary number 4052379/2024, which was beyond the permissible period of 45 days under Rule 5 of Chapter VII of the DHC Rules, the said provision being mandatory in nature.



- 3.3 In ***Gautam Gambhir and Ors. v. Jai Ambay Traders and Ors.***, 273 (2020) DLT 4, it has been held that Rule 5 of Chapter VII of the DHC Rules, which governs the filing of a Replication, is mandatory in nature and cannot be derogated from.
- 3.4 Any subsequent filing assigned a fresh diary number is to be treated as a fresh institution, and limitation is accordingly required to be computed with reference to that date, as held in ***Jammu and Kashmir State Power Development Corporation v. K.J.M.C. Global Market (India) Limited***, 2017 (162) DRJ 548. Even assuming that the Replication filed on 05.11.2024 was within 30 days from the date on which objections were first raised by the Registry in respect of the Replication filed on 26.09.2024, the same would be treated as non-est, having remained under defects for 196 days from 05.11.2024 until 20.05.2025, i.e., the date of the Impugned Order.
- 3.5 Rule 3 of Chapter IV of the DHC Rules categorically provides that where a document or pleading is found defective, it must be re-filed within seven days at a time and within an aggregate period of 30 days. The same position has also been affirmed in ***COSCO (India) Limited v. Paramsukh Nirman Pvt. Ltd.***, 2019 SCC OnLine Del 9633.
- 3.6 The learned Joint Registrar also recorded, *vide* order dated 27.02.2025, that the Replication filed on 05.11.2024 continued to remain under defects. The Impugned Order further records that the Plaintiffs were seeking additional time to cure the defects



in the Replication. The inherent power to condone delay cannot be exercised in a manner contrary to, or inconsistent with, the procedure expressly prescribed under the DHC Rules, and the said provisions cannot be sidestepped or circumvented in the interest of justice.

- 3.7 The Impugned Order, whereby the learned Joint Registrar declined to take the Replication on record, is based on a correct appreciation of the record and calls for no interference. Accordingly, the present Original Appeal deserves to be dismissed.

ANALYSIS AND FINDINGS

4. Heard the submissions of the learned Counsel for the Parties and perused the material on record.

5. The Impugned Order reads as follows:

“The replication qua defendant no. 1 as well as the corresponding condonation application are still lying under defects. The counsel for the plaintiff seeks further time to remove those defects. The stipulated period to remove the defects is 30 days maximum, which has already lapsed long back. Accordingly the request on behalf of the plaintiff for further time is rejected and it is made clear that neither the replication qua defendant no. 1, nor the corresponding condonation application can now form part of the record.”

6. It is observed that, despite the grant of multiple opportunities to the Plaintiffs to cure the defects in the Replication and the Application, the same were not removed. *Vide* orders dated 24.10.2024 and 27.02.2025, the learned Joint Registrar recorded that the Replication continued to remain under defects and that the defects were required to be removed in accordance with law. Despite the same, the Plaintiffs failed to comply with the directions of



the learned Joint Registrar and, even on the date of the Impugned Order, sought further extension of time to cure the defects in the Replication and the Application.

7. The submission advanced by learned counsel for the Plaintiffs that the delay in curing the defects in the Replication and the Application was occasioned by a change of counsel cannot be accepted as there is no sufficient cause shown for a delay exceeding six months in removing the defects. Even upon consideration of the decision in **Kal Airways** (supra), the repeated extensions sought by the Plaintiffs for curing defects in the Replication cannot be permitted in contravention of Rule 3 of Chapter IV of the DHC Rules.

8. Rule 3 of Chapter IV of the DHC Rules reads as under:

“3. Defective pleading/ document.- (a) If on scrutiny, the pleading/ document is found defective, the Deputy Registrar/ Assistant Registrar, Incharge of the Filing Counter, shall specify the objections, a copy of which will be kept for the Court Record, and return for amendment and re-filing within a time not exceeding 7 days at a time and 30 days in aggregate.

(b) If the pleading/ document is not taken back for amendment within the time allowed under sub-rule (a), it shall be registered and listed before the Court for its dismissal for non-prosecution.

(c) If the pleading/ document is filed beyond the time allowed under subrule (a) the pleading/ document must be accompanied with an application for condonation of delay in re-filing of the said pleading/ document.

(d) Any party aggrieved by any order made by the Registrar under this Rule may, within fifteen days of the making of such order, appeal against it to the Judge in Chambers.”

9. A plain reading of Rule 3 of Chapter IV of the DHC Rules makes it evident that where any pleading or document is found defective upon scrutiny by the Registry, such defects are required to be removed and the pleading or



document re-filed within a period not exceeding seven days at a time and 30 days in the aggregate. This position has also been affirmed in **COSCO (India) Limited** (supra) as under:

“10. However, under Chapter VII, Rule 3 of the Delhi High Court (Original Side) Rules, once a written statement is filed, the same would not be brought on record without the affidavit of admission/denial. It would be one of the defects in the written statement if it is not accompanied with the affidavit of admission/denial. For re-filing and removing defects, there is a total 30 days' period which is available to parties. Chapter I Rule 14 cannot be used to dispense with the mandatory requirements under the Rules, but only in respect of those rules where it is only a question of practice and procedure. The time of seven days from re-filing within the total period of 30 days would have to be considered as a matter of practice and procedure in the present case inasmuch as there is a fundamental difference between the 'filing of the written statement' along with the affidavit of admission/denial and 'bringing the same on record'. If the affidavit of admission/denial is not accompanying the written statement, however, upon the Registry pointing out the said defect, the same can be cured within 30 days. If the said defect is cured, it cannot be held that the written statement and the affidavit of admission/denial cannot be brought on record.”

10. In the present case, the Plaintiffs failed to adhere to the prescribed timeline and, even on the date of the Impugned Order, had not cured the defects in the Replication and the Application. Having regard to the delay on the part of the Plaintiffs in curing the defects in the Replication and the Application, the conduct of the Plaintiffs does not appear to be *bona fide*.

11. In commercial matters, delay may be condoned only upon sufficient cause being shown and where the party seeking such indulgence has not acted negligently. The submissions advanced by the Plaintiffs, when tested on the anvil of the aforesaid legal threshold, fall short of the standard required for the exercise of discretionary relief.



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12. In view of the foregoing analysis, there is no infirmity in the Impugned Order dated 20.05.2025. Accordingly, the present Appeal stands dismissed. There shall be no order as to costs.

TEJAS KARIA, J

JULY 31, 2026

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