2026:DHC:5317

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

Date of decision: 01st JULY, 2026

IN THE MATTER OF:

**O.A. 122/2026**

**IN**

\+ **CS(OS) 322/2023, I.A. 9842-9844/2023, I.A. 1732/2024, I.A. 13195/2026**

VEDPAL SINGH .....Plaintiff

Through: Mr. Tushar Mahajan, Mr. Bhaavan Mahajan and Mr. Tanmay S Surana, Advocates

versus

SATISHPAL & ORS. .....Defendants

Through: *Appearance not given*

**CORAM:**
**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**JUDGMENT**

**O.A. 122/2026**

1. The present Chamber Appeal under Chapter II Rule 5 of the Delhi High Court (Original Side) Rules, 2018 ("**the Rules**") has been filed by the Plaintiff challenging the Order dated 05.05.2026 passed by the learned Joint Registrar.

2. The learned Joint Registrar *vide* Order dated 05.05.2026 which is under challenge in the present Appeal, has taken into account the time spent in mediation and hence, the present Appeal has been filed by the Plaintiff in the instant Suit.

3. Shorn of unnecessary details, some basis facts which are necessary for adjudication of the present Appeal are as follows:

i. Summons were issued in the instant Suit *vide* Order dated 22.05.2023 to the Defendants.

ii. Material on record indicates that the Defendant No.1 was served on 14.06.2023, Defendant Nos.2, 5 & 6 were served on 09.06.2023, Defendant No.3 was served on 25.06.2023 and there being no service report of Defendant No.4, his service was presumed as date of first appearance on his behalf i.e. 12.09.2023.

iii. It is stated that Order dated 12.09.2023 reflects that Parties were willing to explore the possibility of an amicable settlement before the Delhi High Court Mediation Centre. The learned Joint Registrar, therefore, directed the Parties to appear before the Delhi High Court Mediation Centre on 27.09.2023.

iv. Material on records indicates that the settlement talks failed and the Mediation Report dated 12.01.2024 indicates the fact. Therefore, the matter remained in Mediation from 12.09.2023 to 12.01.2024 i.e. about 4 months. It is pertinent to mention that the Defendants filed a combined written statement on 18.01.2024. On 05.05.2026, the learned Joint Registrar exempted the time spent in Mediation from counting the limitation period for filing the written statement and subsequently, condoned the delay in filing the written statement on behalf of the Defendants.

v. The question that, therefore, arises, for consideration is whether the maximum prescribed period for computing the limitation for filing the written statement by the Defendants, namely: (i) Defendant No.1 from

14.06.2023; (ii) Defendant Nos.2, 5 & 6 from 09.06.2023; (iii) Defendant No.3 from 25.06.2023; and (iv) Defendant No.4 from 12.09.2023, is to be reckoned strictly from the said dates, or whether the period during which the parties were engaged in mediation i.e., from 12.09.2023 to 12.01.2024, ought to be excluded while computing the limitation period, particularly when the written statement on behalf of all the Defendants came to be filed on 18.01.2024.

4. The short question which arises for consideration in the present Appeal is as to whether the period spent in mediation by the Parties, can be excluded from the time that has been specified under Chapter VII of the Rules for filing the written statement.

5. It is pertinent to mention that there is divergence of judicial opinions within this Court on the question as to whether time taken in mediation should be excluded from the period mentioned in Chapter VII of the Delhi High Court Rules for filing written statement/replication.

6. Rule 2(i) of Chapter VII of the Rules prescribes that the written statement must be filed within a period of 30 days of receiving the summons along with an affidavit of admission/denial of documents.

7. Rule 4 of Chapter VII of the Rules provides that a written statement may be filed within a further period of 90 days after the initial period of 30 days, subject to filing an application seeking condonation of delay and furnishing reasons explaining why the written statement could not be filed within the prescribed period of 30 days. The said Rule further stipulates that upon expiry of the outer limit i.e., beyond 90 days in addition to the initial

30 day period, the written statement cannot be taken on record. In this regard, reference is made to a Judgment rendered by a Division Bench of this Court in Ram Sarup Lugani v. Nirmal Lugani, **(2020) SCC OnLine Del 1353,** wherein it is held that the time period as prescribed under Chapter VII of the Rules is mandatory and thus there is no power to condone the delay.

8. The question as to whether the time spent in mediation can be excluded or not from the time prescribed under Chapter VII of the Rules, came up for consideration before a Co-ordinate Bench of this Court in Harjyot Singh v. Manpreet Kaur**, (2021) SCC OnLine Del 2629,** wherein the learned Single Judge has taken a view that the time spent in mediation could neither be reckoned nor exempted. Relevant paragraphs of the said Judgment are being reproduced hereinbelow to read as under:

> *"**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. (Supra); Dr. Sukhdev Singh Gambhir v. Shri Amrit Pal Singh : (2003) 105 DLT 184; Telefonaktiebolaget L.M. Ericsson v. Lava International Limited : (2016) 226 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 (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."*
>
> (emphasis supplied)

9. While referring to the abovementioned judgment of the Co-ordinate Bench, the Division Bench of this Court in Amit Tara and Others v. Deepak Tara and Others, **(2024) SCC OnLine Del 7900** also took a view that the said period cannot be condoned. Relevant paragraphs of the said Judgment are being reproduced hereinbelow to read as under:

> *"9. At this stage, Respondent No. 1-Deepak Tara, appearing virtually, refutes the allegation that there were any settlement talks between the parties. He states that there has been no talk in the last 3 years between the parties and thus the grounds taken in the Chamber Appeal were false.*
>
> ***

*16. Further, the discretion exercised by the Court to condone the delay in filing of the written statement is limited to a period of 90 days after the initial 30 days' time period prescribed under the Rules. The said discretion can be exercised if the Court is satisfied that the Defendant was prevented by sufficient cause for exceptional and unavoidable reasons in filing the written statement within the period of 30 days. Moreover, the time period mandated under the Rule 4 of the Rules cannot be extended beyond 120 days on any ground, including on the ground that mediation/settlement talks were on going or pending between the parties during the relevant time for filing of written statement. Ld. Single Judge of this Court in Harjyot Singh v. Manpreet Kaur [2021 SCC OnLine Del 2629], has considered the mandatory nature of Rule 4 vis-à-vis delay in filing to written statement on the ground of pendency of mediation or settlement talk between parties. The observations of ld. Single Judge are reproduced hereinunder:*

> *"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. (Supra); Dr. Sukhdev Singh Gambhir v. Shri. Amrit Pal Singh : (2003) 105 DLT 184; Telefonaktiebolaget L.M. Ericsson v. Lava International Limited : (2016) 226 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 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 (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.*

*xxx xxx xxx*

*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."*

***17. In view of the above, it is clear that the period for filing the written statement cannot be extended beyond the mandatory period of 120 days even if parties are engaged in settlement/mediation. Accordingly, even in the present case, merely because alleged settlement talks were going on between the parties, the same is not a sufficient ground to extend the period for filing of the written statement beyond 120 days.****"*

(emphasis supplied)

10. On the other hand, this Court in Bharat Singh v. Karan Singh and Others, **(2025) SCC OnLine Del 691**, without considering the judgment passed by the Division Bench of this Court in Amit Tara (*supra*), has taken a completely contrary view. Relevant paragraphs of Bharat Singh (*supra*) are being reproduced and reads as under:

*"17. The present suit is one for partition. Section 89 of the CPC provides for settlement of disputes outside Court. Section 89 of the CPC is reproduced, which reads as under:—*

*"89. Settlement of disputes outside the Court.— (1) Where it appears to the Court that there exist elements of a settlement which may be acceptable to the parties, the Court shall formulate the terms of settlement and give them to the parties for their observations and after receiving the observations of the parties, the*

*Court may reformulate the terms of a possible settlement and refer the same for:—*

*(a) arbitration;*

*(b) conciliation;*

*(c) judicial settlement including settlement through Lok Adalat : or*

*(d) mediation.*

*(2) Were a dispute has been referred—*

*(a) for arbitration or conciliation, the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall apply as if the proceedings for arbitration or conciliation were referred for settlement under the provisions of that Act;*

*(b) to Lok Adalat, the Court shall refer the same to the Lok Adalat in accordance with the provisions of subsection (1) of section 20 of the Legal Services Authority Act, 1987 (39 of 1987) and all other provisions of that Act shall apply in respect of the dispute so referred to the Lok Adalat;*

*(c) for judicial settlement, the Court shall refer the same to a suitable institution or person and such institution or person shall be deemed to be a Lok Adalat and all the provisions of the Legal Services Authority Act, 1987 (39 of 1987) shall apply as if the dispute were referred to a Lok Adalat under the provisions of that Act;*

*(d) for mediation, the Court shall effect a*

*compromise between the parties and shall follow such procedure as may be prescribed."*

*18. In view of Section 89 of the CPC, every Court while dealing with family disputes does make a sincere endeavour to ensure that parties reach an amicable settlement rather spending good time and money in litigation. The Apex Court in Vikram Bakshi v. Sonia Khosla, (2014) 15 SCC 80, has emphasized the spirit of Mediation and has observed as under:—*

> *"16. According to us it would have been more appropriate for the parties to at least agree to resort to mediation as provided under Section 89 CPC and make an endeavour to find amicable solution of the dispute, agreeable to both the parties. One of the aims of mediation is to find an early resolution of the dispute. The sooner the dispute is resolved the better for all the parties concerned, in particular, and the society, in general. For parties, dispute not only strains the relationship but also destroys it. And, so far as society is concerned it affects its peace. So what is required is resolution of dispute at the earliest possible opportunity and via such a mechanism where the relationship between individual goes on in a healthy manner. Warren Burger, once said:*
>
> *"The obligation of the legal profession is ... to serve as healers of human conflict ... we should provide mechanisms that can produce an acceptable result in shortest possible time, with the least possible expense and with a minimum of stress on the participants. That is what justice is all about."*
>
> *Mediation is one such mechanism which has*

*been statutorily brought into place in our justice system. It is one of the methods of alternative dispute resolution and resolves the dispute in a way that is private, fast and economical. It is a process in which a neutral intervenor assists two or more negotiating parties to identify matters of concern, develop a better understanding of their situation, and based upon that improved understanding, develop mutually acceptable proposals to resolve those concerns. It embraces the philosophy of democratic decision-making [Alfin, et al., Mediation Theory & Practice (2nd Edn., 2006) Lexis Nexis].*

*17. Thus, mediation being a form of alternative dispute resolution is a shift from adversarial litigation. When the parties desire an ongoing relationship, mediation can build and improve their relationships. To preserve, develop and improve communication, build bridges of understanding, find out options for settlement for mutual gains, search unobvious from obvious, dive underneath a problem and dig out underlying interests of the disputing parties, preserve and maintain relationships and collaborative problem solving are some of the fundamental advantages of mediation. Even in those cases where relationships have turned bitter, mediation has been able to produce positive outcomes, restoring peace and amity between the parties.*

*18. There is always a difference between winning a case and seeking a solution. Via mediation, the parties will become partners in the solution rather than partners in problems. The beauty of settlement through mediation is*

*that it may bring about a solution which may not only be to the satisfaction of the parties and, therefore, create a win-win situation, the outcome which cannot be achieved by means of judicial adjudication. Thus, life as well as relationship goes on with mediation for all the parties concerned and thus resulting into peace and harmony in the society. While providing satisfaction to the litigants, it also solves the problem of delay in our system and further contributes towards economic, commercial and financial growth and development of the country.*

*19. This Bench is of firm opinion that mediation is a new dimension of access to justice. As it is one of the best forms, if not the best, of conflict resolution. The concept of Justice in mediation is advanced in the oeuvres of Professors Stulberg, Love, Hyman, and Menkel-Meadow (Self-Determination Theorists). Their definition of justice is drawn primarily from the exercise of party self-determination. They are hopeful about the magic that can occur when people open up honestly and empathetically about their needs and fears in uninhibited private discussion. And, as thinkers, these jurists are optimistic that the magnanimity of the human spirit can conquer structural imbalances and resource constraints.*

*19.1.Professor Stulberg, in his masterful comment on the drafting of the Uniform Model Mediation Act, Fairness and Mediation, begins with the understated predicate that "the meaning of fairness is not exhausted by the concept of legal justice". In truth, the more pointed argument advanced in the article is*

*that legal norms often diverge quite dramatically from our notion of fairness and the notion of fairness of many disputants. Legal rules, in Stulberg's vision, are ill-equipped to do justice because of their rigidity and inflexibility.*

*19.2.Professors Lela Love and Jonathan M. Hyman argue that mediation is successful because it provides a model for future collaboration. The authors state that the process of mediation entails the lesson that when people are put together in the same room and made to understand each other's goals, they will together reach a fair resolution. They cite Abraham Lincoln's inaugural address which proposed that in a democracy, "'a patient confidence in the ultimate justice of the people' to do justice among themselves ... is a pillar of our social order".*

*19.3. Professor Carrie Menkel-Meadow presents a related point of view in making the case that settlement has a political and ethical economy of its own and writes:*

*"Justice, it is often claimed, emerges only when lawyers and their clients argue over its meaning, and, in turn, some authoritative figure or body pronounces on its meaning, such as in the canonical cases of the late twentieth century ... For many years now, I have suggested that there are other components to the achievement of justice. Most notably, I refer to the process by which we seek justice (party participation and empowerment, consensus rather than compromise or command) and the particular types of outcomes that might help to*

*achieve it (not binary win-lose solutions, but creative, pie-expanding or even shared solutions).”*

*19.4. Justice in mediation also encompasses external developments, beliefs about human nature and legal regulation. Various jurists are drawn to mediation in the belief that litigation and adversarial warring are not the only, or the best ways to approach conflict. And how optimistically and sceptically mediators assess the capabilities of individual parties and institutional actors to construct fair outcomes from the raw material of human conduct.*

*19.5. Mediation ensures a just solution acceptable to all the parties to dispute thereby achieving “win-win” situation. It is only mediation that puts the parties in control of both their disputes and its resolution. It is mediation through which the parties can communicate in a real sense with each other, which they have not been able to do since the dispute started. It is mediation which makes the process voluntary and does not bind the parties against their wish. It is mediation that saves precious time, energy as well as cost which can result in lesser burden on exchequer when poor litigants are to be provided legal aid. It is mediation which focuses on long-term interest and helps the parties in creating numerous options for settlement. It is mediation that restores broken relationship and focuses on improving the future not of dissecting the past. It is based on an alternative set of values in which formalism is replaced by informality of procedure, fair trial procedures by direct participation of parties, consistent norm*

*enforcement by norm creation, judicial independence by the involvement of trusted peers, and so on. This presents an alternative conceptualisation of justice."*

***19. In the opinion of this Court, if parties are attempting to mediate and settle the dispute and are forced to file written statements then this will hamper the entire mediation process and would be detrimental to the spirit of Mediation which ensures a just solution acceptable to all the parties to the dispute thereby achieving a win-win situation. In the opinion of this Court, forcing the parties to file a written statement or to complete the pleadings during the process of mediation will prevent the parties in freely communicating with each other which they have not been able to since the dispute started.*** *Confronted with a similar problem, while reckoning the time period for filing the written statement and as to whether the time spent in Mediation should be excluded or not, a Co-ordinate Bench of this Court in Telefonaktiebolaget L.M. Ericsson v. Lava International Limited, 2015 SCC OnLine Del 13903, has observed as under:—*

> ***"21. It is evident that from 31st August, 2015 till 29th October, 2015 undisputedly parties were trying to settle their dispute. Time of 59 days was spent on settlement talks which at the end of the day could not be materialized. Interim application is at the stage of conclusion of the arguments on behalf of the defendant. The advantage, if any, has gone in favour of the defendant as there is no ex-parte interim injunction in the present case. After having heard learned counsel for the parties, I am of the view that since the parties were trying to resolve their dispute amicably and***

***that process has taken 59 days, the said period is to be excluded from the period provided in the Civil Procedure Code and Clause 4D(i) of Commercial Courts Ordinance.***

*22. Even otherwise, it is a well settled principle of law that if parties are negotiating settlement during the pendency of a matter, then the Court will condone the delay in filing of written statement due to such settlement talks. This Court, in its decision in Dr. Sukhdev Singh Gambhir v. Amrit Pal Singh, ILR (2003) 1 Del 577, inter alia held that:*

*"5. Having heard, counsel for the parties and taking into consideration the respective pleas urged before me, I am of the view that this is a case where the delay in filing of the written statement deserves to be condoned. Firstly it is a suit for partition concerning family members where every endeavor should be made for amicable settlement. Even otherwise, the mandate under Section 89 effort ought to be made to settle the matter. Secondly, the defendant had already filed the written statement in the suit in District Court. Hence it could not be the situation that the defendant was delaying the case, but on account of the attempts at settlement written statement was not filed"*

*20. The judgment of the Co-ordinate Bench in Telefonaktiebolaget L.M. Ericsson (supra) has been quoted with approval by another Co-ordinate Bench of this Court in Greaves Cotton Ltd. v. Newage Generators (P) Ltd., 2019 SCC OnLine Del 6556, wherein after quoting the Telefonaktiebolaget L.M. Ericsson (supra), this Court has observed as under:—*

> *"12. Hence, this court would encourage mediation as a mechanism to settle the disputes. While the mediation process is on to insist that the parties should speedily file pleadings in its very nature would be an adversarial act and not be conducive for the mediation process. Hence pendency of the mediation proceedings itself would not be sufficient ground to condone the delay in re-filing the written statement."*
>
> (emphasis supplied)

11. The view taken by this Court in Bharat Singh (*supra*) has been affirmed by another Division Bench of this Court in Sangeeta Rai Sandhu and Others v. Charanjit Sandhu and Others, **(2025) SCC OnLine Del 5541**, it was observed as under:

> *"16. Further, the learned Counsel for the Appellants placed reliance on a Single Bench judgment of this Court in Bharat Singh (Supra), to substantiate his contention that a post-mediation extension in form of a liberty to file the written statement, shall be granted. This judgment is, in the opinion of this Court, applicable to the present case to the extent that it answers a disputed question of law. While placing reliance on the judgments of the Coordinate Benches of this Court in Telefonaktiebolaget L.M. Ericsson v. Lava International Limited4 and Graves Cotton Ltd. v. Newage Generators (P) Ltd.5, the learned Single Judge rightly held that, particularly in the backdrop of dispute arising out of family matter,* ***the time period utilised in mediation proceedings ought not to be calculated within the statutory limitation for filing of pleadings.*** *The learned Single Judge while relying upon the Supreme Court's judgment of Vikram Bakshi v. Sonia Khosla6, also emphasized that when the*

*parties earnestly engage in mediation, the Court shall always make a sincere endeavour for an amicable settlement of such dispute.*

*17. Furthermore, in the opinion of this Court, in so far as the contention of the learned counsel for the Appellants with respect to the intention of the learned Single Judge in its order dated 29.03.2023 qua the direction of completion of pleadings is concerned, this Court observes that the Appellants have appeared before the Joint Registrar even during the pendency of the mediation proceedings. The same is evident from the order dated 04.05.2023, wherein the counsel for the Appellants sought time from the learned Joint Registrar to file their written statement on the pretext of collecting certain relevant documents. The relevant portion of the said order of learned Joint Registrar is reproduced under:*

> *"It is submitted by counsel for plaintiff that no written statement has been filed by any defendant till date and stipulated period for filing the same has expired and their right to file written statement may be closed.*
>
> *It is submitted by counsel for defendant nos. 1 to 3 that she could not file written statement till date as she is collecting the relevant documents regarding the property in question and seeks some more time to file written statement along with relevant application for condonation of delay.*
>
> *Settlement talks before mediation is still going on. However, no settlement has been finalized till date.*
>
> *List for same as well as for appearance of*

*defendant nos. 4 and 5 for 02.08.2023."*
*[Emphasis Supplied]*

*The above-said Order was passed by the learned Joint Registrar on 04.05.2023, and as such the argument advanced by the counsel for the Appellants regarding the mediation proceedings leading to delay in filing the written statement squarely contradicts the contention of the counsel for the Appellants. More so for the reason, that the Appellants' proactive request seeking time to file the written statement without any objection constitutes to a representation. As such, in light of the equitable doctrine of estoppel, they cannot now claim delay on the pretext of pendency of the mediation proceedings, as doing so would be inequitable and contrary to established legal principles.*

***18. However, with respect to the intention of the learned Single Judge referring the parties to mediation while concurrently listing the matter before the learned Joint Registrar, in the opinion of this Court, vide its Order dated 29.03.2023 is rendered inessential, particularly in view of the observations of this Court with respect to Bharat Singh (Supra) in the preceeding paragraph.***

***19. Now, coming to the factual matrix of the present case, it is undisputed that the summons was effected upon the Appellants on 31.01.2023. Whereas, pursuant to the learned Single Judge's Order dated 29.03.2023, the parties were actively trying to settle the dispute by way of mediation from 17.04.2023 to 20.11.2023, which ultimately failed, and a Mediation Report dated 20.11.2023 to that effect was filed. Subsequently, the Appellants' right to file the written***

***statement was closed on 21.12.2023. Although the Appellants eventually filed their written statement on 29.04.2024, the fact that, their right to file the written statement was closed on 21.12.2023 by the learned Joint Registrar, cannot be lost sight of.***

*20. In addition to the aforestated, this Court deems it appropriate to bifurcate the pre-mediation and post-mediation period to provide an enhanced clarity. Excluding the time period consumed by mediation, the pre-mediation period, commencing from the date of service of summons on 17.02.2023 and concluding with the referral to mediation on 29.03.2023, amounts to 40 days. Similarly, the post-mediation period, starting from 21.11.2023, immediately following the Mediation Report dated 20.11.2023, upto 21.12.2023, the date of closure of right of the Appellants, totals to 30 days. As such both the pre-mediation and post-mediation period when taken together amounts to 70 days. Accordingly, the total delay excluding the time of mediation till the date the right of the Appellants to file the written statement was closed was within the prescribed time limit.*

*21. Therefore, in light of the aforestated and the subsequent interpretation as provided by the Benches of this Court, it is reiterated that the prescribed limit of 120 days for filing a written statement is inviolable and cannot be exceeded under any guise. Nevertheless, if the parties have chosen the recourse of mediation to reach to an amicable settlement, the time so spent shall stand excluded while calculating the time limit prescribed for filing the written statement."*

(emphasis supplied)

12. Thus, there is an apparent divergence of judicial opinions between the Coordinate Benches and Division Benches of this Court, which requires

reconciliation in order to put a quietus on the issue as to whether during the process of mediation, when the parties are trying to amicably settle the disputes, should a Defendant be compelled to file the written statement or a Plaintiff be compelled to file the replication, or keeping in mind the spirit of mediation, should this period spent in mediation be excluded from the period prescribed under Chapter VII of the Rules.

13. Section 89 of the CPC mandates the parties to explore the possibilities of settlement or resolve their disputes through mediation. The Apex Court in Vikram Bakshi v. Sonia Khosla, **(2014) 14 SCC 80** has emphasized the importance of mediation and observed that there exists a marked distinction between merely succeeding in litigation and arriving at a resolution through mediation. It was observed that in the process of mediation, parties transform from being adversaries in conflict to collaborators in finding a solution. The Apex Court further noted that settlement through mediation is capable of yielding an outcome that is mutually satisfactory to the parties, thereby creating a win-win situation, which may not always be attainable through adjudicatory proceedings.

14. In the present times, particularly when India is endeavouring towards a 'Vivad Mukt Bharat', considerable emphasis is being placed on mediation. In the opinion of this Court, compelling a party to file a written statement, thereby shifting the focus towards adversarial litigation, would mean swimming against the tide favouring mediation.

15. Be that as it may, in view of the fact that an authoritative pronouncement is necessary to avoid conflicting decisions by the learned Joint Registrars while dealing with the applications for condonation of delay in filing the written statement/replication, when the parties are in mediation

is necessary.

16. In view of the above discussion, let the matter be placed before Hon'ble the Chief Justice to constitute an appropriate Bench of two or three Judges to answer the following question:

> "Whether the time spent in mediation ought to be excluded while computing the limitation period prescribed for filing the written statement/replication as prescribed under Chapter VII of the Delhi High Court (Original Side) Rules, 2018?"

**SUBRAMONIUM PRASAD, J**

**JULY 01, 2026**
*Prateek/JR*