

## M/S Hari Om Homeo Kalayanpur vs Ganga Parshad Puri & Ors. on 27 March, 2025

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 27th March

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CM(M) 567/2025 & CM APPL. 17821-17822/2025

M/S HARI OM HOMEO KALAYANPUR

.....Petitioner

Through:

Mr. Kushal Kumar with  
Umrao and Mr. Pranay K  
Advocates.

versus

GANGA PARSHAD PURI & ORS.

.....Respondent

Through: Mr. T K Ganju, Sr. Advocate with M  
Aquib Ali, Ms. Anupriya Nigam and  
Ms. Ameeran Khaliq, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The point involved in the present petition is very short and precise.
2. A commercial suit was filed by respondent/plaintiffs seeking possession, permanent and mandatory injunction.
3. According to plaintiffs, the property was leased out by virtue of lease agreement dated 17.02.2021, which was even got registered.
4. The defendant in such civil suit i.e. petitioner herein, was duly served with the summons on 24.05.2024.
5. When the matter was taken up by the learned District Judge, (Commercial Court) on 10.02.2025, it considered one application moved by defendant under Order VIII Rule 1 read with Section 151 CPC whereby the defendant was seeking condonation of delay in filing the written statement. It dismissed the same observing that the delay in filing written statement was of 51 days, beyond the statutory period of 30 days and that defendant, petitioner herein, had failed to show any justifiable or reasonable ground for condonation of delay and, resultantly, while dismissing the abovesaid application under Order VIII Rule 1, it struck off the defence of the petitioner/defendant as well.
6. Such order is under challenge.
7. Admittedly, the written statement had been filed by defendant on 14.08.2024.
8. When asked, learned counsel for the petitioner/lessee submitted that they never in possession of

suit property which was even sealed by NDMC.

9. Learned Senior counsel for respondent/plaintiff appears on advance notice and submits that though the petitioner has failed to demonstrate any sufficient cause before the learned Trial Court, keeping in mind the fact that the written statement had been filed within outer permissible limit of 120 days, he would have no objection if the defence of the defendant is restored, subject to imposition of heavy cost and without prejudice to their rights.

10. Keeping in mind the overall facts and circumstances of the case and the gracious concession given by learned Senior Counsel for the respondent, and also the fact that the written statement is otherwise within the maximum permissible outer limit of 120 days, the petition is allowed and the written statement filed by the defendant is deemed to be on record and the defence of the defendant also stands restored. However, for causing delay in the matter, the petitioner is burdened with cost of Rs. 50,000/-. Let the cost be paid before the learned Trial Court on the date fixed which is stated to be 16.05.2025.

11. Learned counsel for petitioner submits that since the petitioner was never in possession, they would have no objection, if the plaintiffs approach NDMC for appropriate remedy for the purposes of reclaiming the possession, after de-sealing.

12. Needless to say, since the defence has been restored and written statement has been directed to be taken on record, it will be open to the plaintiff to file replication, if any. The plaintiff would also be at liberty to file application afresh under Order XII Rule 6 CPC which was earlier withdrawn for the reason that the written statement had been taken off the record and the defence had been struck off.

13. Petition, along with pending applications, if any, stands disposed of in aforesaid terms.

(MANOJ JAIN) JUDGE MARCH 27, 2025/sw/pb