

ITEM NO.44

COURT NO.3

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 23104/2025

[Arising out of impugned final judgment and order dated 21-05-2025
in FA00S No. 183/2024 passed by the High Court of Delhi at New
Delhi]

OMESH MISHRA MEMORIAL CHARITABLE TRUST

Petitioner(s)

VERSUS

MANEESHA TYAGI & ORS.

Respondent(s)

Date : 22-05-2026 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE ATUL S. CHANDURKARFor Petitioner(s) :Mr. Zahid Ali, Adv.
Mr. Paramjeet Singh, Adv.
Mr. Pramit Saxena, AORFor Respondent(s) :Mr. Rajesh Kr. Malhotra, Adv.
Mr. Dalip Kumar Malhotra, AORMr. Rakesh K Khanna, Sr. Adv.
Mr. Kaushal Yadav, AOR
Mr. Aditya P Khanna, Adv.
Mr. Nandlal Kumar Mishra, Adv.
Mr. Davinder N Grover, Adv.
Ms. Vijay Lakshi Grover, Adv.UPON hearing the counsel the Court made the following
O R D E R

1. The instant special leave petition has been filed assailing the final judgment and order dated 21.05.2025 in FA00S 183/2024 passed by the High Court of Delhi at New Delhi (hereinafter referred to as "High Court"). By the impugned order, the appeal filed by the Petitioner challenging the order dated 16.10.2024 of

the learned Single Judge in O.A. No. 42/2024 in CS(OS) No. 590/2022, has been dismissed. The learned Single Judge, *vide* the order dated 16.10.2024 had upheld the decision of the Joint Registrar refusing to take the Petitioner's written statement on record in CS(OS) No. 590/2022.

2. The facts, shorn of unnecessary details, are that the civil suit, bearing CS(OS) No. 590/2022 was filed by the Respondent No. 1 and 2 (Plaintiffs) seeking declaration of ownership over the first and second floor along with terrace of property bearing No. 27, Ishwar Nagar, New Delhi as well as permanent injunction against the Petitioner (Defendant No. 3) from interference in possession or creation of third-party rights.

3. The Petitioner filed a written statement in the said civil suit on 15.04.2023 with a delay of 123 days. On 30.11.2023, the Joint Registrar of the High Court dismissed the application under Order VII Rule 1 r/w Section 151 of the Code of Civil Procedure, 1908 & Section 5 of the Limitation Act, 1963 for condonation of delay in filing the written statement.

4. A challenge was made to the said order of the Joint Registrar by the Petitioner before the learned Single Judge in OA No. 42/2024 in an appeal under Rule 5 of Chapter II, Delhi High Court (Original Side) Rules, 2018, which was also delayed by 82 days.

5. Before the learned Single Judge, the counsel appearing for the Petitioner conceded that order dated 30.11.2023 passed by the Joint Registrar is correct in facts and law, but relied upon some judgments and sought condonation of delay in filing of the appeal as well as in filing of the written statement.

6. The learned Single Judge agreed with the finding of the Joint Registrar that the Petitioner had not pleaded any exceptional or unavoidable grounds for not filing the written statement within the statutory period provided under Rule 4 of Chapter VII of Delhi High Court (Original Side) Rules, 2018.

7. The Division Bench of the High Court *vide* the impugned order has decided the appeal challenging the learned Single Judge's order, relying on judgments of the High Court, and held that the prescribed period of 120 days is mandatory and there can be no condonation of delay beyond the same.

8. After hearing learned counsel for the parties and considering the facts and circumstances of the case, in exercise of our power under Article 142 of the Constitution of India, in the interest of justice, the written statement filed by the Petitioner be taken on record subject to payment of costs of Rs.1,00,000/- (Rupees one lakh only) by the petitioner to the other side within one week and the High Court is at liberty to proceed further in the matter. After taking the counter affidavit

on record, the suit be decided as expeditiously as possible, within one year from the date of receipt of this order.

10. Accordingly, the special leave petition stands disposed of. Pending applications, if any, shall also stand disposed of.

(GULSHAN KUMAR ARORA)
DEPUTY REGISTRAR

(KOMAL)
COURT MASTER