



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>WPMS/2493/2026</u> Naresh Bhatia --Petitioner Versus Rohitash Hurla --Respondent <u>Hon'ble Manoj Kumar Tiwari, J.</u> Mr. Aditya Singh, Advocate for the petitioner. 2. Mr. Bhuwan Bhatt, Advocate for the respondent. 3. Petitioner has challenged order dated 07.08.2026, passed by learned First Additional District Judge, Dehradun in Misc. Case No. 12 of 2025. 4. It is not in dispute that a suit for eviction, filed against petitioner before Small Cause Court, was decreed <i>ex- parte</i>, on 25.05.2023. The landlord/ decree holder put the decree to execution, which was registered as Execution Case No. 12 of 2025. Petitioner moved an application under Order 9 Rule 13 CPC, for setting aside the <i>ex-parte</i> decree, which was registered as Misc. Case No. 12 of 2025. Both cases were clubbed by the Court concerned. 5. Delay in filing application for setting aside <i>ex-parte</i> decree, was condoned by Trial Court, vide order dated 05.10.2023. Thereafter, on 31.07.2025, petitioner gave undertaking before Executing Court by making hand written



		endorsement in the order-sheet that he will vacate the shop, on or before 01.05.2026. Subsequently petitioner filed an application seeking recall of that order dated 31.07.2025, which was accompanied with a delay condonation application, as there was delay of 68 days in filing recall application. 6. Learned Executing Court refused to condone the delay of 68 days by holding that petitioner's plea that he acquired knowledge about the order dated 31.07.2025 through his daughter, cannot be accepted, as petitioner himself had put signatures in the order-sheet, giving an undertaking that he will vacate the shop. It was further observed by Executing Court that based on undertaking given by petitioner on 31.07.2025, execution case was closed and petitioner cannot take somersault by moving recall application. 7. The reason assigned for rejecting the application, cannot be faulted. A litigant cannot be permitted to resile from his undertaking. After giving undertaking by making endorsement on the order-sheet, petitioner cannot question that undertaking. Thus, there is no scope for interference with the impugned order. 8. Mr. Aditya Singh, learned counsel appearing for petitioner submits that petitioner
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		is an old person, who runs a small radio repair shop and he has to support two daughters, one divorcee, therefore, some reasonable time be given to him for searching alternative shop. 9. Mr. Bhuwan Bhatt, learned counsel appearing for respondent submits that six months can be given to petitioner for vacating the shop, having regard to his age. 10. The writ petition is disposed of by providing that petitioner will give an undertaking in the form of affidavit, that he will vacate the shop in question and hand over peaceful possession thereof to the landlord, on or before 19.05.2027. Subject to petitioner submitting such undertaking before Executing Court, within fifteen days from today, he shall be permitted to retain the shop till 19.05.2027. However, if he fails to furnish such undertaking within stipulated time, then the landlord shall be at liberty to proceed against him, as per law. (Manoj Kumar Tiwari, J.) 19.08.2026 Navin NAVEEN CHANDRA
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