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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 280/2025 & CM APPL. 62420/2025, CM APPL.**
62422/2025

ROHAN GOYAL PROP OF VALENTINE FURNITURE
.....Appellant

Through: Mr. Gaurav Malhotra, Advocate.

versus

M/S TIKURAM ASSOCIATES LLP **.....Respondent**

Through: Mr. Ashok Popli, Advocate.

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AMIT SHARMA

% **ORDER**
09.07.2026

1. The present appeal is filed by the original defendant judgment debtor.
2. The prayers in the appeal, reads as under: -

“a. To admit the appeal and to set aside the order Dt 24.05.2025 passed by the court of Ms Hemani Malhotra, DJ(COMM)-02/West/THC/Delhi in Misc DJ/543/2024 and main suit CS(COMM) N0-0 1/2021

b. To call for the records of the case arising out of the CS(COMM) NO- 01/2021 and Misc DJ/543/2024 decided by the court of Ms Hemani Malhotra, DJ(COMM)-02/West/THC/Delhi;

c. To pass any such order as this Hon'ble court may deem fit and proper in the facts and circumstances of this case and in the interest



of justice.”

3. The order impugned is dated 24th May, 2025.
4. The appellant, having suffered an *ex-parte* decree dated 15th September, 2022 for the recovery of amount, approached the Commercial Court thereby invoking the pleading under Rule 13 of Order 9 Rule 13 of the CPC for setting aside such *ex-parte* decree.
5. It is the case of the appellant that he has two addresses, namely, G-640 M.G Road, Industrial Area, Ghaziabad, UP, and X-9 Land Craft, Golf Link, Ghaziabad, UP (residential address). According to him, in spite of aforesaid two addresses being available on the record, including the invoices and other documents, the decree holder/plaintiff played a mischief thereby showing his address at shop no. C-10, 1st floor, Hint Chowk, Near Police Chowki, Raj Nagar, Ghaziabad, UP. He would claim that, as far as the aforesaid address at shop no. C-10, 1st floor, Hint Chowk, Near Police Chowki, Raj Nagar, Ghaziabad, UP is concerned, the appellant has no connection whatsoever and the suit summons which was served on the said address were improperly served. According to him, there was no sufficient notice to the appellant to appear in the aforesaid commercial suit to defend the same, which led to passing of the *ex-parte* decree. It is further urged that, in such an eventuality, the decree be set aside as the suit summons were not properly served, and if so required, the appellant be put to condition to deposit an amount of Rs. 1,10,000/-, being the invoice amount, without prejudice to the rights of the appellant.
6. According to learned counsel for the appellant, once the aforesaid fact



is established from the record, particularly the invoices, this Court must note the reasoning recorded by the Commercial Court in failing to exercise the jurisdiction in favour of the appellant thereby refusing for setting aside the *ex-parte* decree dated 15th December, 2022. Learned counsel for the appellant has relied on the addresses mentioned in the documents which were part of the suit.

7. As against above, the learned counsel for the respondent/decreed holder would urge that not only the appellant has not deposited the amount which was informed to this Court, leading to the appellant enjoying interim relief/stay of the decree for some time, but there is also no statement in the application for setting aside the *ex-parte* decree that the address at shop no. C-10, 1st floor, Hint Chowk, Near Police Chowki, Raj Nagar, Ghaziabad, UP. cannot be said to be related to the appellant. According to him, there is sufficient material, as reflected in the impugned order, to infer that the appellant had sufficient notice of the suit summons. In spite of service of suit summons on appropriate address, the appellant chose not to appear or respond in the suit and, that being so, interference in exercise of appellate jurisdiction is not warranted.
8. We have considered these submissions.
9. As referred to above, it appears that the litigation between the parties dwell around the 3 addresses referred to in the suit, and in the application under Order 9 Rule 13 of the CPC *vis*: i) G-640/G-140, MG Road Industrial Area, Ghaziabad, UP ii) X-9 Land Craft, Golf Link, Ghaziabad, UP (residential address) and iii) shop no. C-10, 1st floor, Hint Chowk, Near Police Chowki, Raj Nagar, Ghaziabad, UP.



10. In the suit proceedings initially, the summons was sought to be served on the address *i.e.*, G-140, MG Road Industrial Area, Ghaziabad, UP. Though, it is claimed by the learned counsel for the appellant that the said address is incorrect and it should have been G-640, MG Road Industrial Area, Ghaziabad, UP, the suit summons appears to have been served by furnishing the subsequent address after the suit summons was returned un-served for want of correct address, on the address M/s Valentine Kitchen, Shop No. C-10, 1st Floor, Hint Chowk, Near Police Chowki, Raj Nagar, Ghaziabad, UP. After the suit summons were served, the appellant failed to appear before the Court and it was directed that the suit be proceeded *ex-parte* and as such the decree came to be passed.
11. After the decree in question came to be passed, the same was subjected to execution. When the bailiff went for attachment at the address *i.e.*, shop no. C-10, 1st floor, Hint Chowk, Near Police Chowki, Raj Nagar, Ghaziabad, UP, the appellant responded to the bailiff's call and appears to have resisted the execution by claiming that he was not aware of the suit proceedings and the *ex-parte* decree. The very fact that appellant attended the bailiff at the address *i.e.*, shop no. C-10, 1st floor, Hint Chowk, Near Police Chowki, Raj Nagar, Ghaziabad, UP, itself demonstrates and rightly led the Commercial Court to a conclusion, that the address *i.e.*, shop no. C-10, 1st floor, Hint Chowk, Near Police Chowki, Raj Nagar, Ghaziabad, UP, belonged to the appellant and that he was rightly served with suit summons at the said address.
12. In such an eventuality, if the appellant intends to demonstrate before the Commercial Court, and also before this Court, that the correct



address was not M/s Valentine Kitchen, Shop No. C-10, 1st Floor, Hint Chowk, Near Police Chowki, Raj Nagar, Ghaziabad, UP and it should have been either G-640, MG Road Industrial Area, Ghaziabad, UP, or at X-9 Land Craft, Golf Link, Ghaziabad, UP (residential address), it was incumbent upon the appellant to demonstrate that he is no way connected to that address on which the suit summons were shown to be served *vis* M/s Valentine Kitchen, Shop No. C-10, 1st Floor, Hint Chowk, Near Police Chowki, Raj Nagar, Ghaziabad, UP.

13. A perusal of the application preferred under Order 9 Rule 13 of CPC, as also the present appeal, it is apparent that there is absence of specific pleadings that the appellant is no way connected to the said address on which the suit summons were shown to be served.
14. Apart from the above, it was open to the appellant to seek permission to lead original evidence before the Commercial Court to establish that the address *vis* shop No. C-10, 1st Floor, Hint Chowk, Near Police Chowki, Raj Nagar, Ghaziabad, UP did not belong to him.
15. In the absence of such specific pleadings and any material to that effect, in our opinion, the Commercial Court was justified in rejecting the application for setting aside the *ex-parte* decree dated 15th September, 2022, in exercise of its powers under Order 9 Rule 13 of the CPC. Rightly so, the Commercial Court inferred that the appellant had failed to demonstrate that the suit summons had not been legally and properly served upon the appellant.
16. In such an eventuality, in our opinion, no fault could be noticed in the order impugned passed under Order 9 Rule 13 of the CPC by the Commercial Court on 24th May, 2025.



17. The appeal as such fails and stands dismissed.

NITIN WASUDEO SAMBRE, J

AMIT SHARMA, J

JULY 9, 2026/kr/ah