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

+ **CS(OS) 99/2023**

VIKASH YADAV

.....Plaintiff

Through: Mr. Bipindra NC and Mr Pawan
Madhukar, Advs.

versus

MOOL CHAND YADAV & ORS.

.....Defendants

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **28.04.2025**

I.A. 10630/2025 (for exemption)

1. This is an application filed on behalf of the plaintiff seeking exemption from filing the certified copy of the dismissal order dated 15.03.2024 filed along with the application under Order XI Rule 9 Code of Civil Procedure, 1908 ('CPC') for restoration of the suit.
2. This application is allowed, subject to just exceptions.
3. The application is disposed of.

I.A. 10628/2025 (under Order XI Rule CPC for restoration of the suit)

I.A. 10629/2025 (under Section 5 of the Limitation Act, 1963 for condonation of delay)

4. I.A. 10628/2025 is an application filed by the plaintiff under Order XI Rule 9 CPC seeking restoration of the suit and setting aside the order dated 15.03.2024 whereby the plaint was rejected for non-deposit of Court fees.
5. I.A. 10629/2025 is an application filed under Section 5 of the

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Limitation Act, 1963 seeking condonation of delay of 402 days in filing the restoration application seeking recall of the order dated 15.03.2024.

6. Learned counsel for the plaintiff states that plaintiff has made financial arrangements for depositing the deficient Court fee and, he states that therefore, the present applications be allowed, the delay condoned and the order dated 15.03.2024 be recalled.

7. In the considered opinion of this Court, the plaint stands rejected vide order dated 15.03.2024 under Order VII Rule 11(c) CPC for non-payment of the requisite Court fee.

8. Under CPC, the plaintiff has a legal remedy under Order VII Rule 13 CPC, which enables the plaintiff to file a fresh plaint in respect of the same cause of action, subject to curing the defects, which have been recorded in the order dated 15.03.2024.

9. However, the present application filed under Order XI Rule 9 CPC for seeking recall of order dated 15.03.2024 is not maintainable as the said provision is inapplicable, in the facts of the case.

10. The applications are thus, dismissed reserving liberty to the plaintiff to avail its remedy in accordance with law.

APRIL 28, 2025/msh/akp

MANMEET PRITAM SINGH ARORA, J

[Click here to check corrigendum, if any](#)

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