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

% **Date of decision: 20th May, 2024**

+ **C.R.P. 203/2022 & CM APPL. 53878/2022, CM APPL. 53880/2022**

KAPIL

..... Petitioner

Through: **Mr. R.P.S. Sirohi and Mr. Surya Pratap Sirohi, Advs.**

versus

**KRISHAN LAL SINCE DECEASE THROUGH HIS LRS
AND ANR**

..... Respondents

Through: **Ms. Sharmistha Choudhary,
Adv. for R-2**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

(PROCEEDINGS CONDUCTED THROUGH HYBRID MODE)

DHARMESH SHARMA, J. (ORAL)

1. The petitioner, who is the defendant in a suit instituted by the respondents/plaintiffs, is assailing impugned order dated 19.10.2022^j passed by learned Additional Senior Civil Judge, Dwarka Courts, New Delhi¹, whereby his application under Order IX Rule 7 of the Code of Civil Procedure, 1908² was dismissed.

2. Having heard the learned counsels for the rival parties, shorn of unnecessary details, the parties are neighbours and the grievance of the respondents/plaintiffs in the suit is that the petitioner/defendant while doing construction on his property attempted to damage the wall of the respondents/plaintiffs at portion 'A', 'B', 'C' & 'D' as shown in

¹ Trial Court

² CPC



the site plan. It is evident from the record that summons of the suit were duly served upon the petitioner/defendant and he appeared in person on 07.08.2019, 01.10.2019 and 02.12.2019 but thereafter he stopped appearing and was thus, proceeded *ex parte* by the learned Trial Court *vide* order dated 28.02.2022. It then appears from the record that on 03.09.2022 the present application under Order IX Rule 7 of the CPC was moved, which came to be dismissed by the learned Trial Court *vide* the impugned order.

3. Although learned counsel for the petitioner/defendant seeks benefit of extension of period of limitation on account of the intervening COVID-19 pandemic period, however, the conduct of the petitioner/ defendant stares on the face of the record to the effect that much before the COVID-19 pandemic period he had stopped appearing in the matter and even after passing of the order dated 28.02.2022, he belatedly filed the said application on 03.09.2022. In the interregnum evidence of the respondents/ plaintiffs had already been recorded.

4. Hence, in view of the aforesaid conduct of the petitioner/defendant, there is no merit in the present revision petition. The same is accordingly dismissed.

5. The present revision petition along with the pending applications stands disposed of.

DHARMESH SHARMA, J.

MAY 20, 2024

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