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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 952/2018**

RAJENDER KUMAR (DECEASED) THR LRSPetitioner

Through: None

versus

PINKI (CHARU BHARDWAJ)Respondent

Through: Mr. A.K. Dubey, Mr. Pawan Kr. And
Ms. Vidya Sagar, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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27.01.2025

CM APPL. 4889/2025 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

REVIEW PET. 41/2025 (under Section 114 of CPC), CM APPL. 4888/2025 (stay) & CM APPL.4890/2025 (delay)

1. The Review Petition under Section 114 of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) has been filed on behalf of the Petitioner, against the Order dated 24.10.2024 *vide* which the Order challenging the dismissal of Application under Order VI Rule 16 CPC of the Plaintiff/Petitioner by the learned Trial Court, was allowed.
2. The main ground on which the Review is sought, is that there is an incorrectly representation that the Suit got transferred from the Court of learned Civil Judge to learned ADJ. The correct fact is that it was not



transferred under Section 24 CPC, but the Suit was returned under Order VII Rule 10 CPC and presented afresh before the learned District Judge, who continued with the trial, from where it was pending before the learned Civil Judge.

3. It is submitted that had this fact been brought to the notice of the Court, the Petition would not have been allowed by this Court. It is further submitted that the Respondent had been appearing earlier before the Court but on that date, his presence has not been recorded. It is further submitted that though the Respondent was present but has been proceeded *ex-parte* on 24.10.2024. It is, therefore, submitted that the Order suffers from error apparent on the face of the record and be set-aside.

4. **Submissions heard and the record perused.**

5. The first and foremost, as has been submitted on behalf of the Respondent/Applicant that he had been appearing throughout. It so was the case, there was nothing which prevented him in pointing out that it was not on transfer but under Order VII Rule 10 CPC, when the case was withdrawn from the Court of learned Civil Judge and presented before the learned ADJ.

6. Learned counsel on being put a specific query, whether the trial was continued from the stage where the case got returned, has answered that though the learned ADJ had continued the trial from the stage at which the matter was pending before the learned Civil Judge but apparently, the learned Additional District Judge is not aware of the law and has wrongly proceeded so, even though the trial should have been commenced *de novo*.

7. The learned counsel has made blatant statements which only reflect his lack of knowledge of law and incompetency. However, without any further remarks, it is noted that whether the Case was transferred to the



Court of learned ADJ or was presented on return, the fact remains that the fact and law that was in dispute, has been considered on its merit. There is neither any error apparent on the face of the record in the Order nor does it merit any interference. The Application is hereby dismissed.

8. The Application is disposed of accordingly along with the pending Applications.

NEENA BANSAL KRISHNA, J

JANUARY 27, 2025/RS