



2025:DHC:473



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

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Date of Decision: 28.01.2025+ **RFA 71/2025, CM APPL. 5182/2025 (stay), 5184/2025 & 5183/2025**

VIVEK SHARMA

.....Appellant

Through: Mr. Anit Kumar and Mr. Nikhil
Sharma, Advocates.

versus

SAMEER DHIMAN

.....Respondent

Through: None

CORAM: JUSTICE GIRISH KATHPALIA**J U D G M E N T (ORAL)**

1. The appellant has assailed order dated 06.11.2024 and the consequent decree for recovery of money passed in the suit under Order XXXVII CPC. I have heard learned counsel for appellant and examined the records, but find no merit in the appeal to even issue a notice to the other side.

2. Briefly stated, the circumstances as follows. The present respondent filed a suit against the appellant for recovery of Rs.23,00,000/- under Order XXXVII CPC. After hearing both sides on the issue of grant of leave to

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defend, the learned Trial Court vide order dated 22.04.2024 granted the appellant leave to defend subject to the appellant depositing 20% of the suit amount in Court as security in favour of the present respondent. The said order dated 22.04.2024 was accepted by the appellant and not challenged. But the amount of 20% of the suit amount, deposit whereof was the condition precedent to grant of leave to defend, was not deposited in court by the appellant. That ultimately led to the impugned order dated 06.11.2024, whereby the suit was decreed under Order XXXVII Rule 3 CPC. Hence the present appeal.

3. On behalf of appellant, the only submission advanced by learned counsel is that due to financial constraints, the appellant could not deposit 20% of the suit amount but now he has arranged the money, so leave to defend ought to be granted in order to take the suit through trial. But admittedly, no application was ever filed before the trial court seeking enlargement of time to deposit the said 20% of the suit amount. Rather, it appears that till date even written statement, which was to be filed within 30 days vide order dated 22.04.2024 has not been filed.

4. As mentioned above, even in this appeal, order dated 22.04.2024 has not been assailed.

5. In the above circumstances, I am unable to find any infirmity in the



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impugned order and decree, so the same are upheld. The appeal and the accompanying applications are dismissed.

**GIRISH
KATHPALIA**

Digitally signed by GIRISH KATHPALIA
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**GIRISH KATHPALIA
(JUDGE)**

JANUARY 28, 2025/v