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

+ **FAO 62/2024& CM APPLs. 11369/2024, 11370/2024, 69626/2025
&69631/2025**

PRAKASH TANEJA

.....Appellant

Through: **Mr. Vikram Singh, Advocate**

versus

ANURAG BUDHWAR

.....Respondent

Through: **Mr. Sanjay Rathi, Mr. Nikhil Kr. Singh, Ms. Shalini Sharma and Mr. Hitanshu Chhillar, Advocates**

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

ORDER

10.11.2025

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1. The present appeal has been filed under Order XLI Rule 1 CPC, 1908 for setting aside the impugned order dated 03.01.2024 passed by learned ADJ-03, Tis Hazari Courts, West Delhi, passed in Civ DJ 745/2023 whereby an application stated have been filed under Order IX rule 13 of the Code of Civil Procedure (CPC) by the appellant/defendant stands dismissed.

2. The respondent/petitioner filed a suit for possession and recovery of arrears of rent, claiming ownership of the suit



premises. According to the appellant/defendant, no summons was ever served upon her and hence the trial court went wrong in setting her ex-parte and proceeding to record the evidence of the respondent/petitioner. The appellant/defendant on coming to know of the order setting her ex-parte, filed a petition to set aside the same. However, the trial court wrongly dismissed the application holding that summons had been served on the appellant/defendant, when in fact no summons had been served on her.

3. It is submitted by the learned counsel for the appellant/defendant that summons was never served on the latter, and therefore, the finding of the trial court that summons was served on her is incorrect and hence, interest of justice requires the impugned order to be set aside. He submits that the report of the process server regarding the service of summons is false. It is further submitted that the appellant/defendant had met with an accident pursuant to which she was in the hospital and hence there was no possibility of the summons being served on her.



4. Per contra, it is submitted by learned counsel for the respondent/plaintiff that summons had been duly served on the appellant/defendant and that there is no infirmity in the impugned order calling for interference by this Court.

5. Heard both sides

6. In the impugned order it is stated that two addresses of the appellant/defendant had been provided and hence summons was sent to both the said addresses. When the process server attempted to serve summons at her address at GH-13/369, SFS Flats, Paschim Vihar, New Delhi, one Hema Taneja stated to be the daughter-in-law of the appellant/defendant refused to accept the summons. Thereafter, fresh summons was sent to the appellant/defendant at the aforesaid address by speed post which returned with endorsement refused. Summons was also issued to the appellant/defendant at another address, namely, flat no. 63, second floor, DDA MIG flats, Milansar Apartments, Paschim Vihar, New Delhi. The said summons was returned with a report



that it had been served on one Nirmal Kaur, daughter-in-law of the appellant/defendant. The appellant/defendant has taken up a contention that she is not in good terms with her daughter-in-law. The appellant/defendant has no case that the persons referred to in the report are not her daughters-in-law. She has no case that the addresses in which the summons was attempted to be served on Hema Taneja and the address in which the summons was received by Nirmal Kaur are not her addresses. Now, I will assume for a moment that the daughters-in-law on whom the summons were served are not in good terms with the appellant/defendant and that they have not informed the appellant/defendant of the receipt of the summons. However, this will also not help the appellant/defendant because the summons sent by the speed post was returned 'refused', which is proper service of summons. It cannot be believed that the endorsement made by the postman is also false. There are no materials to believe so. That being the position, the materials on record show that summons was in fact



served on the appellant/defendant and hence the averments to the contrary are apparently wrong.

7. I find no infirmity in the impugned order calling for an interference by this Court.

8. Hence, the appeal *sans* merit is dismissed. Applications, if any pending, shall stand closed.

CHANDRASEKHARAN SUDHA, J

NOVEMBER 10, 2025/mj