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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA(COMM) 96/2023 & CM APPL. 26331/2023**
M/S SHREE JEE ENTERPRISES THROUGH ITS PROPRIETOR
.....APPELLANT

Through: Ms Jyoti Bajaj, Advocate.

versus

M/S KAY IT NATION THROUGH ITS PROPRIETOR
.....RESPONDENT

Through: Ms.Venika Nim, Sh.Sumit Jain,
Mr.Manvendra Kumar, Mr.Pavitra
Kumar Nim, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

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14.07.2025

1. The appellant has filed the present appeal impugning the judgment and order dated 14.02.2023 [**impugned judgment**] rendered by the learned Commercial Court in the summary instituted by the respondent for recovery of ₹4,00,736/- being CS (COMM) 286/2022 captioned *M/s KAY IT Nation v. M/s Shree Jee Enterprises* under Order XXXVII of the Code of Civil Procedure, 1908 [**the CPC**].
2. The impugned judgment has been passed on the basis that the appellant had defaulted in entering appearance and filing the affidavit of address within the period of ten days from the service of notice.
3. The learned Commercial Court has proceeded on the basis that the appellant was served with the summons through e-mail dated 27.10.2022 and had entered appearance on 01.12.2022. It is the appellant's case that the service was affected on 29.11.2022 on the appellant's wife and consequently, the appellant had entered appearance on 01.12.2022.



4. The respondent had objected to the appellant's appearance on the ground that the appellant was entering appearance beyond the period of ten days as stipulated under Order XXXVII Rule 3 of the CPC. Additionally, the learned Commercial Court also faulted the appellant for not filing the affidavit of address within the period of ten days.

5. The appellant does not dispute that the e-mail has been received from 'Nazarat Branch', which included two attachments. The said attachments were the summons. However, it is stated that there was no plaint or documents attached with the said e-mail. It is also stated that the said e-mail was blank and there was no body of the e-mail, thus, it was a blank e-mail with two identical attachments.

6. It is the appellant contention that the appellant being a layman did not understand that the 'Nazarat Branch' is the process serving branch of the Court. Since the subject or body of the e-mail was blank, the appellant did not open the attachment fearing that his mobile would be hacked or the attachments may contain a virus.

7. The learned counsel appearing for the respondent is unable to controvert the aforesaid contentions of the appellant. She, however, submits that the e-mail was sent by the Nazarat Branch and, therefore, the service of summons for appearance must be taken as effected.

8. We find merit in the appellant's contention that the service of an e-mail, which is blank and does not contain any suit number or the particulars of the action instituted, would give justifiable ground to the recipient to doubt the genuineness of the e-mail. A person not familiar with the Court proceedings or nomenclature, obviously would have found it difficult in understanding that the Nazarat Branch is a branch / office of the Court and



consequently, identify the e-mail was the communication from the Court.

9. In so far as the furnishing of the affidavit of address is concerned, the appellant was bound to do so within the period of ten days. However, it appears that there was some confusion in this regard as well because the issue of service has been raised by the respondent. The learned Commercial Court had permitted the appellant to file an application to justify the stand and listed the matter on 19.12.2022. Undisputedly, on the next date of hearing, that is on 19.12.2022 - the appellant had also furnished the address. The appellant had already conveyed his intention to contest the suit.

10. In view of the above, we consider it apposite to set aside the impugned judgment and remand the matter to the concerned Commercial Court. The learned counsel for the appellant submits that she will file the leave to defend application within the period of fifteen days from date.

11. In view of above, we direct that the matter be listed before the learned Commercial Court on 01.08.2025 for directions and further proceedings in accordance with law.

12. The appeal is allowed in the aforesaid terms. The pending application is also disposed of.

VIBHU BAKHRU, J

TEJAS KARIA, J

JULY 14, 2025

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