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

% *Date of Decision: 04.02.2025*

+ **RFA 242/2022, CM APPL. 25686/2022 & 25685/2022**

DEEPAK GUPTA

.....Appellant

Through: Mr. Vinay Kumar Parihar, Advocate

versus

DHARMENDRA KUMAR GUPTA

.....Respondent

Through: None

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. The appellant has assailed judgment and decree for recovery of Rs. 4,00,000/-, passed against him in the summary suit filed by the present respondent. The impugned judgment and decree were passed because the appellant opted not to file application seeking leave to defend the suit under Order XXXVII CPC.

2. Upon service of notice issued by the predecessor bench, respondent entered appearance through counsel but today none has appeared on his behalf and I find no reason to adjourn the matter. As such, I have heard learned counsel for appellant, who has taken me through records.

RFA 242/2020

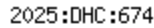
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3. Briefly stated, the present respondent filed a summary suit against the appellant for recovery of Rs. 4,00,000/- on the basis of a bounced cheque which had been issued by the appellant towards repayment of friendly loan. On registration of the suit, summons in the prescribed format under Order XXXVII CPC were issued and the appellant entered appearance before the Trial Court. Thereafter, on 18.09.2020, summons for judgment were issued under Order XXXVII CPC returnable on 24.11.2020. But till 25.11.2020, the appellant opted not to file application for leave to defend despite clear service of the summons for judgment on 12.11.2020, as established from postal receipt and tracking report. As further reflected from record, on 20.11.2020, the appellant filed an application seeking to enter appearance, in which he alleged that the summons for judgment were received by his relative at his residence in his absence. Under these circumstances, the learned Trial Court passed the impugned judgment and decree under Order XXXVII Rule 6(a) CPC.

4. The only argument advanced on behalf of the appellant is that the appellant had already paid back the loan amount, so he is entitled to leave to defend. But if that be so, it remains unexplained as to why the appellant would not take back his cheque, bouncing whereof led to the summary suit. No other argument on behalf of appellant has been advanced.

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5. It is also nobody's case that summons for judgment were not served on the appellant. As mentioned above, the present respondent placed on record of the Trial Court postal receipts and tracking report as per which the summons for judgment were duly served on 12.11.2020. Not only this, thereafter the appellant himself also moved an application on 20.11.2020, pleading that the summons for judgment were served on 12.11.2020 in his absence at his residence. It is also nobody's case that the appellant did not know special procedure prescribed under Order XXXVII CPC. For, as mentioned above, the appellant even entered appearance under Order XXXVII CPC, after which summons for judgment were issued and served on him.

6. Considering the above circumstances, I am unable to find any infirmity in the impugned judgment and decree, so the same are upheld and the appeal is dismissed. Pending applications also stand disposed of.

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GIRISH KATHPALIA, J.

FEBRUARY 04, 2025/as

Click here to check corrigendum, if any