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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 164/2024 and CM APPL. 29346/2024**

THE STATE OF BIHAR THROUGH ITS CHIEF
SECRETARY & ORS.Appellants

Through: Mr. Abhimanyu Jhamba, Mr.
Thopinao Thangal & Ms.
Ayushi Srivastava, Advs.

versus

SH. DESH PALRespondent

Through: Mr. Samit Khosla, Adv.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER
25.03.2025

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1. Having heard the learned counsels for the parties and on perusal of the record, this Court finds that the present appeal under Order XLIII read with Section 104 of the Code of Civil Procedure, 1908 [“CPC”] assailing impugned order dated 29.08.2023, whereby the application of the appellants under Order IX Rule 13 of the CPC has been dismissed, is bereft of any merits.

2. **First things first**, there is an unexplained delay of 161 days in filing the present appeal. Even if the same is condoned upon taking a liberal view, there is no merit in the appeal for the reason that the *ex parte* judgment cum decree dated 21.09.2019 was sought to be set aside by filing an application under Order IX Rule 13 of the CPC on 27.01.2022. Evidently, the appellants, who were the defendants, were duly served with the summons for settlement of issues and the written statement was filed besides the fact that they were being duly represented before the learned Trial Court. Much mileage is sought to



be taken from the fact that from September 2018, learned Counsel for the appellants deliberately failed to appear and in essence the blame for non-appearance in the matter is sought to be put on the shoulders of the previous Counsel.

3. The learned trial Court has rightly observed that the averments are vague and show absence of due diligence on the part of the appellants/defendants. No details are furnished as to who are the officials responsible for the said lapses and if any action has been taken against them. The inordinate delay in filing the application under Order IX Rule 13 of the CPC has not been satisfactorily explained.

4. Accordingly, the present appeal is dismissed.

5. The pending application also stands disposed of.

DHARMESH SHARMA, J.

MARCH 25, 2025/*Sadiq*