



\$~58

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 127/2025**

MOHD SHAKIRAppellant
Through: Mr. Rajesh Kumar, Adv.

versus

MOHD AKRAMRespondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

% **ORDER**
13.05.2025

CM APPL. 28688/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. The applications shall stand disposed of.

FAO 127/2025; CM APPL. 28686/2025 (Delay of 445 days in filing); CM APPL. 28687/2025 (Interim Stay)

3. This application is moved on behalf of the applicant/appellant seeking condonation of delay of 445 days in filing the present appeal against the impugned order dated 06.04.2024 passed by the learned District Judge-07, South-East District, Saket Courts, New Delhi, whereby the application of the appellant under Order IX Rule 13 of the Code of Civil Procedure, 1908 [**'CPC'**], for setting aside exparte judgment cum decree dated 27.01.2022 was dismissed.

4. It is the case of the appellant that the matter was listed before the learned Trial Court on 12.10.2021, but due to some family dispute, he had to go out of station and as he was having some financial problems during the relevant time, he could not appear before the Court and could not contact his counsel either. It is stated that he

returned back on 15.05.2023, and thereafter, he contacted his counsel

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 15/05/2025 at 12:37:15



and that on 02.06.2022, then came to know about the execution application for enforcement of the judgment/decreed dated 27.01.2022 and thereafter, he appeared before the learned Executing Court, in which he made every attempt to get the matter amicably settled with the respondent/decreed holder but in vain.

5. *Ex-facie*, no sufficient cause is shown by the appellant to condone the delay. There is a clear admission that the certified copy of the impugned judgment-cum-decreed was obtained on 19.05.2023.

6. Anyhow, even if a liberal view is taken and the application for condonation of delay is allowed, the appellant has no case on merits either. At the cost of repetition that the appellant was proceeded *ex-parte* after filing of written statement and framing of issues on 13.01.2020; and last appearance was put by the defendant in the matter on 27.01.2021 and eventually he was proceeded *ex-parte* on 12.10.2021, and the impugned judgment-cum-decreed was passed on 27.01.2022.

7. Instead of writing a long thesis on the subject, it is suffice to state that the requirements of Order IX Rule 13 of the CPC has not been met in the present matters since it is neither the case of the appellant that he was not served with the summons for settlement of issues nor there is brought on the record any fact by appellant so as to suggest that he was prevented from appearing in the matter due to any sufficient cause or any cause beyond his control.

8. Hence, the present appeal is dismissed.

9. The pending application is also disposed of.

DHARMESH SHARMA, J.

This is a digitally signed order.

The authenticity of the order can be verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 15/05/2025 at 12:37:15

MAY 13, 2025/sp