



2025:DHC:4817



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

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***Date of Decision: 26.05.2025***+ **C.R.P. 158/2025****RASHI THAKUR**

.....Petitioner

Through: Mr. OP Gupta and Mr. Nitin Garg,  
Advs.

versuss

**POONAM & ORS.**

.....Respondents

Through:

**CORAM:****HON'BLE MS. JUSTICE TARA VITASTA GANJU****TARA VITASTA GANJU, J.: (Oral)**

1. The present Petition has been filed under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as "CPC"] impugning the order dated 23.01.2025 [hereinafter referred to as "Impugned Order"] passed by the learned Senior Civil Judge, District South West, Dwarka Courts, Delhi. By the Impugned Order, the suit filed by the Petitioner/Plaintiff was dismissed for non-prosecution.

1.1 The Impugned Order also sets out that since steps were taken by the Petitioner (plaintiff before the learned trial court) on the three dates of hearing i.e., 16.05.2024, 29.08.2024 and 21.11.2024 the suit is dismissed for non prosecution.

2. A perusal of the record reflects that a suit for recovery in the sum of Rs. 61,470/- was filed by the Petitioner/Plaintiff along with *pendente lite* and future interest. The summons in the suit were issued on 01.02.2023 and thereafter, the order dated 07.06.2023 reflects that since the Defendants could not be served, the Petitioner/Plaintiff was given the liberty to accompany the process server. Even subsequently, thereafter an Application



for substituted service was filed by the Petitioner/Plaintiff and fresh summons for settlement of issues were issued to the Respondents (Defendants before the learned Trial Court) through e-mode vide order dated 15.02.2024. The order dated 15.02.2024 passed by the learned Trial Court is set out below in this behalf:

*“Ld. counsel for plaintiff moved an application u/o V Rule 20 CPC for effecting substituted service upon the defendants. Mobile number and e-address of all the defendants have been provided.*

*Heard. Perused.*

**Issue fresh summons for settlement of issues to the defendants through e-mode on filing of PF/RC, returnable on 16.05.2024.**”

[Emphasis supplied]

3. The subsequent orders passed by the learned Trial Court reveal that the directions were issued on 16.05.2024 as well as 29.08.2024 when the Petitioner/Plaintiff was directed to file fresh address of the Respondents/Defendants along with PF/RC. The learned Trial Court once again passed orders for Petitioner/Plaintiff to accompany the process server for the purpose of identification of the address and addressee. The order dated 16.05.2024 & 29.08.2024 is set out below in this behalf:

**“16.05.2024**

*Process qua defendants received back unserved. **Plaintiff is directed to file fresh addresses of defendants alongwith PF/RC.** Thereafter, issue fresh summons for settlement of issues to the defendants for the next date. Matter be re-listed on 29.08.2024.*

**29.08.2024**

*It is submitted by ld. counsel for plaintiff that the defendants are residing at the address just opposite to the address mentioned in the memo of parties. The application u/o V Rule 20 CPC has already been disposed of on 15.02.2024. Fresh address not filed by plaintiff in terms of order dated 16.05.2024.*

**Plaintiff is directed to file the fresh addresses of defendants alongwith**



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**PF/RC, thereafter issue fresh summons for settlement of issues to defendants for the next date of hearing.**

*Plaintiff is at liberty to accompany the Process Server for the purpose of identification of address and addressee.*

*Matter be re-listed on 21.11.2024."*

[Emphasis supplied]

4. In view of the matter being pending for almost two years before the learned Trial Court and the fact that no steps were taken by the Petitioner/Plaintiff, the learned Trial Court has deemed it apposite to dismiss the suit for non-prosecution. The only submission made by the learned Counsel for the Petitioner/Plaintiff is that the process fee for effecting service of summons on 16.05.2024 was duly filed. Reliance is placed on Annexure I to the present Petition which records that the process fee was filed on 22.02.2024. However, the order dated 16.05.2024 directed fresh summons to be issued to the Respondents/Defendants since the service was not effected.

5. Despite repeated directions to the Petitioner/Plaintiff for issuing of fresh summons, steps were not taken for almost two years after the filing of the suit by the Petitioner/Plaintiff. Hence, the learned Trial Court deemed it apposite to dismiss the Petition.

6. At this stage, learned Counsel for the Petitioner/Plaintiff seeks permission of the Court to withdraw the present Petition with liberty to file appropriate proceedings.

6.1 The liberty as sought for is granted, albeit in accordance with law.

7. The Petition is accordingly dismissed as withdrawn.

8. The parties will act based on the digitally signed copy of the order.

**TARA VITASTA GANJU, J**

**MAY 26, 2025/r**

*Click here to check corrigendum, if any*