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

+ **FAO 164/2025 & CM APPL. 36289/2025**

SUNDER NAGAR & ANR.Appellants
Through: **Mr. L.K. Singh and Mr. Aviram, Adv.**
versus

ANITA RANI JAIN & ORS.Respondents
Through: **None.**

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER
% **30.05.2025**

1. This hearing is being conducted through hybrid mode.

CM APPL. 36290/2025 – EXMP.

2. Allowed, subject to all just exceptions.

3. Application stands disposed of.

FAO 164/2025 & CM APPL. 36289/2025

4. The appellants are preferring this appeal under Section 104 read with Order XLIII Rule 1(C) of the Code of Civil Procedure, 1908 [hereinafter referred to as “CPC”], challenging the impugned order dated 19.04.2025, passed by the learned District Judge-02, Shahdara, whereby the application of the appellants under Order IX Rule 9 of the CPC has been dismissed.

5. No one is present for the respondents despite sending any advance notice.

6. It appears that the appellants have filed a suit for ‘possession, declaration and recovery of arrears of rent besides permanent and mandatory injunction’ against the respondents in respect of the subject property.



7. It is submitted that the pleadings were complete and only the issues were to be framed, however, the suit came to be dismissed on 23.03.2023 for non-appearance of the appellants as well as their counsel.

8. Evidently, the application under Order IX Rule 9 of the CPC along with the application for condonation of delay under Section 5 of the Limitation Act was filed on 16.01.2025.

9. At this stage, it would be apposite to reproduce the reasons that have prevailed in the mind of the learned Trial Court in passing the impugned order:

“6. Ld. Counsel for the Plaintiffs fairly conceded that the applicants have not deposited the said cost of Rs. 4000/-imposed vide order dated 20.08.2022 till date.

7. Also, no plausible reason has been putforth on behalf of plaintiffs for not appearing before the Ld. Predecessor Court earlier on any of the dates since 18.10.2021.

8. Further, no reason has been mentioned in the condonation application as to the delay in filing the instant application since 23.03.2023, except stating that earlier the previous counsel for the plaintiffs did not inform the plaintiffs about the proceedings and that it is only in the month of November 2024, when the plaintiff no.2 applied for the Certified copy of complete file, the plaintiffs came to know on receiving the certified copy of complete file on 07.01.2025 that cost was imposed upon the plaintiffs on 20.08.2022, and that the matter has been dismissed for non-prosecution on 23.03.2023.

9. Ld. Counsel for the plaintiffs further submitted that in month of November 2024, one person namely Sh. Chaman Bhardwaj visited the suit property and claimed himself to be the owner of the suit property, and thereafter, the plaintiffs contacted their previous counsel, who did not give any positive response, and feeling suspicion about the conduct of the previous counsel, plaintiffs engaged a fresh counsel, who then, applied for the certified copy of the case file on 19.11.2024.

10. Per contra, Ld. Counsel for defendants submits that no such period has been mentioned in condonation application, as to when the said person namely Sh. Chaman Bhardwaj visited the suit property.

11. Admittedly, no complaint has been filed by the plaintiffs against their previous counsel w.r.t. his conduct, as alleged in the instant application.



12. Even otherwise, no plausible reason has been put forth on behalf of plaintiffs for not taking any steps or for not following up their case since its dismissal on 23.03.2023 till November 2024.”

10. The learned Trial Court has further relied on the decision in **Rajneesh Kumar vs. Ved Prakash** [2024 SCC OnLine SC 3380].

11. This Court unhesitatingly finds that the learned Trial Court has not committed any illegality, perversity or incorrect approach in law in disposing the applications.

12. Hence, the present appeal is dismissed. All pending applications also stand disposed of.

DHARMESH SHARMA, J.

MAY 30, 2025/gunn/sa