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

\+ FAO 420/2019 & CM APPL. 46648/2019

JAMMU & KASHMIR BANK LTD .....Appellant
Through: Mr. Rahul Sharma, Adv.

versus

MANUJ KAPOOR & ANR .....Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **09.05.2025**

1. No one appeared for the respondent when the matter was called.

2. Having heard the learned counsel for the appellant and on perusal of the record, this Court has no hesitation in finding that the present appeal preferred by the appellant/Bank under Order XLIII Rule 1(c) read with Section 151 of the Civil Procedure Code, 1908, ['CPC'] assailing the impugned order dated 07.06.2019 passed by the learned Trial Court, dismissing the suit for recovery bearing Suit No. 290/2013 filed by the appellant/plaintiff is bereft of any merits.

3. Suffice to state that the suit was dismissed for non-appearance of the AR of the appellant/Bank as well as their counsel on 29.04.2016.

4. It appears that the respondent No.1/borrower had been proceeded *ex-parte* during the course of proceedings, when it was dismissed on 29.04.2016.

5. However, the application for restoration of the suit was filed on 01.04.2019, after almost thirty five months. The only plea that has been taken by the appellant/plaintiff is that their previous counsel was

guilty of professional misconduct as he failed to inform the appellant/bank about the progress of the case.

6. During the course of the arguments, it was acknowledged by learned counsel for the appellant that prior to the dismissal of the suit on 29.04.2016, the matter was listed on 08.10.2015, 30.11.2015 and 19.02.2016 and on the first date of hearing, even the official of the appellant/bank was present and his presence was recorded. The application for restoration appears to have been filed without any application for condonation of delay, and even otherwise, evidently no sufficient cause has been shown by the appellant so as to grant any relief to it.

7. In other words, nothing has been explained as to how and in what manner the circumstances were beyond the control of appellant/bank. Why there was inordinate delay in filing the application for restoration has not been explained.

8. The present appeal is therefore dismissed. The pending application is also disposed of.

DHARMESH SHARMA, J

MAY 09, 2025/sp/sa