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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 15th July, 2025*

+ CM(M) 1220/2025 & CM APPL. 41099/2025

SHREE ASSOCIATES

.....Petitioner

Through: Mr. Chetan Roy with Ms. Deeksha
Mandhan, Advocates.

versus

E SHAKTI.COM PVT LTD

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner had filed a suit seeking recovery of Rs. 33,45,023/- with interest.
2. The suit is commercial in nature.
3. After the institution of the suit, *vide* order dated 28.02.2025, the learned Trial Court directed issuance of summons on filing process fee through all modes, including electronic mode.
4. Such summons, however, were received back as unserved.
5. Learned District Judge, Commercial Court, granted one opportunity to plaintiff to submit fresh address of defendant or else, to take steps for substituted service.
6. It seems that, thereafter, the plaintiff submitted one application placing on record fresh/alternate address of defendant Company but since it was not supported with affidavit of the plaintiff, it was permitted to be withdrawn, while also granting liberty to move application afresh.



7. Thereafter, the petitioner submitted one more application with a request that the process be issued at new address of the defendant. In his such application, he, however, mentioned that he came to know about such new address on the basis of some internal sources and inquiry.
8. Such application has been dismissed by the learned Trial Court *vide* order dated 06.05.2025 while observing that plaintiff had not divulged the particulars of his such sources.
9. Such order is under challenge.
10. However, there is one more aspect of the case.
11. While disallowing the abovesaid application, the leaned Trial also went on to observe that despite grant of several opportunities, the plaintiff had neither filed the fresh address of the defendant nor had taken any step for their service through substituted mode. Holding that the plaintiff was not interested in prosecuting the case and had been wasting judicial time, the suit itself has been dismissed for *non-prosecution*.
12. The prayer in the present petition is to the effect that such extreme step was not warranted, particularly, when the plaintiff was dully represented before the learned Trial Court on all dates.
13. So much so, at few previous occasions, he was burdened with cost, which he also deposited and, therefore, the learned Trial Court should not have dismissed the suit for *non-prosecution*.
14. As per the memo of the parties, reflected in the plaint, respondent is stated to be a registered company.
15. Being a registered company, the registered address of such company would be definitely available on the website of Ministry of Corporate Affairs (MCA).



16. Learned counsel for petitioner submits that such registered address was, infact, mentioned in the *memo of parties* at the time of institution of suit but since the defendant company remained unserved even at the said address, he was forced to find alternate address and, therefore, it could not have been held that he was not diligent in pursuing his abovesaid suit which has, unfortunately, been dismissed for *non-prosecution*.

17. During course of arguments, learned counsel for petitioner submitted that if the suit is permitted to be revived, he would ensure that all the requisite steps to effect service upon the defendant are taken, without any further delay.

18. Since the suit had been dismissed for *non-prosecution*, before the defendant could be served, there is no requirement of issuing any notice to defendant with respect to the present petition.

19. In view of the above and keeping in mind the overall facts of case and also in the interest of justice, the impugned order is, hereby set aside and the suit stands restored to its original number and position.

20. Plaintiff is directed to appear before the learned Trial Court on 29.07.2025 and move appropriate application seeking issuance of summons upon the defendant and learned Trial Court would consider such application, in accordance with law.

21. Petition stands disposed of in aforesaid terms.

22. Pending application also stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 15, 2025/sw/JS