



2025:DHC:7739



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 02nd September, 2025***
+ **FAO 201/2025 & CM APPL. 63478/2024**
DAV COLLEGE TRUST AND MANAGING SOCIETY & ANR.
.....Appellant

Through:

versus

DELHI DEVELOPMENT AUTHORITY & ANR.Respondent

Through: Mr. Amit Singh Chauhan and Mr.
ARindam Bharadwaj, Advocates for
R-1/DDA

Mr. K.K. Aggarwal and Mr. Sumeet,
Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. None appears on behalf of appellant.
2. Learned counsel for respondent no. 1 and respondent no. 2 are present.
3. The suit was filed before this Court, on its Original Side, way back in the year 2011 and the plaintiff-Society was seeking declaration and injunction.
4. With the change in pecuniary jurisdiction, suit got transferred to District Courts.
5. Issues were framed on 20.02.2015 and plaintiff-Society was asked to lead and conclude its evidence.
6. Fact remains that, despite grant of several opportunities, plaintiff was not able to conclude its evidence.



7. When the suit was, eventually, taken up by the learned Trial Court on 25.10.2023, noticing that there was no appearance from the side of the plaintiff and the fact that the cost imposed upon the plaintiff on the previous date had not been cleared, suit was *dismissed-in-default* and also for *non-prosecution*.

8. Plaintiff sought restoration of the suit by moving application under Order IX Rule 9 CPC and such application did not find favour with learned Trial Court.

9. The challenge in the present appeal is to the order dated 06.09.2024 whereby the aforesaid application seeking restoration of the suit has been dismissed.

10. Learned counsel for respondents have drawn the attention of this Court towards various previous orders and submit that the plaintiff-Society was not showing due diligence and have been taking things for granted and, therefore, the impugned order does not call for any interference.

11. During further course of arguments, however, without prejudice to their rights and contentions, they submitted that they would have no objection if the suit is directed to be restored, provided the plaintiff-society is put to strict conditions as the suit has already got delayed considerably and plaintiff is not showing any respect to the various previous orders passed by the learned Trial Court whereby the plaintiff-Society was, time and again, impressed upon to lead and conclude its entire evidence.

12. Unfortunately, today also, when the matter was called, there was no



appearance from the side of appellant.

13. Keeping in mind the gracious concession given by the learned counsel for the respondents and also keeping in mind the fact that endeavour of the Court should be to decide the matter on merits, instead of on technicalities, present appeal is disposed of with the following terms:-

- (i) Suit in question stands restored to its original number and position.
- (ii) Parties shall appear before the learned Trial Court on 17.09.2025.
- (iii) Since the case was already at the stage of plaintiff's evidence, plaintiff would wrap up its entire evidence within a period of six weeks from the aforesaid date and, under no circumstance, it would be entitled to any further extension of time for concluding its evidence.
- (iv) However, for showing lackluster and lackadaisical approach, plaintiff-Society is burdened with cost of Rs. 25,000/-. In view of the statement made by learned counsel for DDA, entire such cost be paid to respondent no. 2 i.e. Resident Welfare Association.
- (vi) Aforesaid cost be paid on 17.09.2025. Else, the impugned order would stand revived automatically.

14. Learned counsel for respondents submit that even they would extend their best co-operation and assistance to the learned Trial Court and submit that learned Trial Court may be requested to expedite the disposal of entire suit as such.

15. As noticed already, suit was filed way back in the year 2011.



2025:DHC:7739



16. Learned Trial Court is requested to give requisite priority to the suit in question and to make best endeavour to dispose of the same as expeditiously as possible, preferably, within six months.
17. Appeal stands disposed of in aforesaid terms.
18. Pending application stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

SEPTEMBER 2, 2025/dr/pb