



2025:DHC:10413-DB



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

Date of decision: 24th November, 2025

+ **RFA(COMM) 592/2025**

RANI ALANKAR JEWELLERS PRIVATE LTD.

(THROUGH ITS DIRECTORS),
MAIN ROAD, ANPARA MARKET,
SONBHADRA, U.P. – 231225

....Appellant

Through: Mr. Anuj Aggarwal and Mr. Atul Kumar,
Advocates.

Versus

KUNDAN LAL AND SONS

(THROUGH ITS PARTNERS),
1-D, KAMLA NAGAR,
NEW DELHI — 110007

....Respondent

Through: Mr. Ashutosh Nagar, Mr. Ishan Harlalka,
Ms. Prakriti Pande & Mr. Navtej Singh,
Advocates

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE ANISH DAYAL

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

CM APPL. 73746/2025 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

RFA(COMM) 592/2025, CM APPL. 73673/2025, CM APPL. 73745/2025

3. In a suit for recovery the summons was served through *e-mail* on 17th July 2025 whereas *dasti* was served on 23rd July 2025.

Signature Not Verified

Signed By: SURAJ KANT
YADAV
RFA(COMM) 592/2025
Signing Date: 27.11.2025
15:07:43



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4. The suit summons granted 30 days' time to the appellant (original defendant/judgment-debtor) to submit his written statement within a period of 30 days.
5. Instead of waiting for the 30 days period to expire, the Commercial Court has passed a decree *vide* judgment dated 14th August 2025, and as such this appeal came to be filed.
6. Amongst others, the grounds canvassed by the appellant are that the time to file written statement shall start running from the date the suit summons was served on the appellant which, even if, reckoned from 17th July 2025 i.e. the date when service was effected through *e-mail*, expires on 16th August 2025. It is claimed that instead of waiting till completion of the said period, the dates were advanced by the Trial Court at the convenience of the respondent/decreed holder and the *ex-parte* judgment and decree dated 14th August 2025, came to be passed.
7. While resisting the aforesaid submissions, the counsel appearing for respondent/decreed holder would urge that even if the suit summons prescribes the period of 30 days for filing written statement, which is further extendable, still the fact remains that once the service is effected, it is expected of the appellant/judgment debtor to take immediate steps by putting in their appearance, which the appellant did on 14th August 2025, but failed to appear upon the initial service of 17th July 2025.
8. According to him, the appellant waived his right to file written statement once he is served and appeared on 14th August 2025, particularly when the intention was to avoid or delay the suit proceedings. According to him, this Court must be sensitive to the very object with which the provisions of the Commercial Courts Act 2015, are enacted.
9. We have considered the rival claims.



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10. We are equally required to be sensitive to the provisions of Order VIII of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') which contemplates that defendant shall place on record its written statement.

11. If we carefully peruse the suit summons it prescribes that after the service of suit summons, it was open for defendant/appellant to submit the written statement within a period of 30 days, which in this case would have expired on 16th August 2025.

12. The judgment and decree in the case in hand came to be passed on 14th August 2025 without waiting or giving a chance to the appellant to submit written statement.

13. We can understand the position that on 14th August 2025, the appellant appeared before the learned Trial Court and the Trial Court could put the appellant to a condition of filing written statement within stipulated time; however, it appears that the Trial Court proceeded hastily in closing the suit for judgment, which came to be delivered on the very same day i.e. 14th August 2025.

14. This Court is equally required to be sensitive to the language employed in the suit summons which is pursuant to the mandate of the procedure contemplated under Order VIII of the CPC. Order VIII Rule 1 of the CPC reads as under:-

***“1. Written Statement.—The Defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:
Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons.***



Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.”

15. Though the mandate for filing the written statement under the said order is prescribed to be 30 days in the suit summons, however, upon prayer for extension of the period to file the written statement, if the Trial Court is satisfied that there exist convincing reasons to extend the prescribed period, it is open for the Trial Court to appreciate the reasons and upon recording such reasons, the period is extendable to 120 days, as could be inferred from the suit summons.

16. In the case in hand, the fact remains that before the decree could be passed, the appellant has appeared before the Trial Court and the Trial Court proceeded in haste to pass the decree-in-question, that too, without adhering to the very procedural mandate provided under Order VIII of the CPC.

17. No doubt, the counsel appearing for the respondent is justified in inviting the attention of this Court to the very object of the Commercial Courts Act 2015, which in our opinion should have been also referred to by the learned Trial Court in the judgment under Challenge.

18. Keeping the said fact in view, we have asked the counsel appearing for the appellant as to whether he is willing to deposit part of the decretal amount.



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19. The counsel appearing for the appellant has volunteered that the appellant shall be depositing 25% of the amount claimed in the suit within a period of one week from today, without prejudice to his rights in the suit claim.
20. A further undertaking is given by the counsel appearing for the appellant that the written statement, in any case, shall be placed before the learned Trial Court within a period of fortnight from today i.e. two weeks from today.
21. We make it clear that no further extension shall be allowed to the appellant to submit the written statement beyond the period prescribed hereinabove under whatsoever circumstances.
22. For the aforesaid reasons, we deem it appropriate to set aside the impugned judgment and decree dated 14th August 2025 delivered in CS (Comm) No. 687/2025.
23. We make it clear that the amount must be deposited before the Trial Court.
24. The parties herein agree that they shall appear before the Trial Court on 04th December 2025.
25. The date fixed i.e. 30th January 2026 stands cancelled.
26. All pending applications stand disposed.
27. The appeal stands allowed in the aforesaid terms.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**ANISH DAYAL
(JUDGE)**

NOVEMBER 24, 2025/sky/ss