



2025:DHC:11352



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

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Date of decision: 11.12.2025

+ FAO 303/2025, CM APPL. 69313/2025, CM APPL. 69314/2025,
CM APPL. 69315/2025 & CM APPL. 69316/2025
GURSIMRAN SINGH AND ANR.Appellants

Through: Mr. Manish Kaushik, Mr.
Raghunandan Shamra Advocates.

versus

MED FRESHE PVT LTDRespondent

Through: Mr. Tanuj Gulati, Mr. Lokesh Kr.
Bidhuri, Mr. Aman Bidhuri, Mr.
Varun Rexwal and Mr. Dipanshu
Bhambhu, Advocates.

CORAM:**HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA****JUDGMENT (ORAL)****CHANDRASEKHARAN SUDHA, J.**

1. This is an appeal filed by the defendant in Misc. SCJ No.50/2023 on the file of the Court of JSCC/ASCJ/GJ-02, aggrieved by the order dated 17.07.2025, by which his application under Order IX Rule 13 of the Code of Civil Procedure, 1908 (the CPC) for setting aside the *ex parte* decree dated 18.08.2020 along with the application under Section 5 of the Limitation Act, 1963 (the Limitation Act) for condonation of delay in filing the said



application, were dismissed.

2. In the applications, it is alleged thus:- The appellant/defendant had engaged the services of a counsel before the trial court. However, the said counsel never instructed the defendant as to what had to be done in the proceedings. The dates of the hearing were also not informed by the counsel. Thereafter, the defendant, while on his way from Delhi to Chandigarh, met with a road accident pursuant to which he was advised complete bed rest for six months. In the month of January-February 2019, his mother was admitted to R.G. Stone Hospital, where she remained an inpatient for 10 days. Thereafter, on 17.05.2019, the applicant/defendant met with another road accident near Jaipur highway, in which he sustained multiple grievous injuries and was advised bed rest for around 1 ½ years. Thereafter, the father of the defendant passed away on 25.12.2020 during the COVID period. Due to the aforesaid reasons, the defendant was unable to appear before the trial court.



2.1. The defendant came to know about the existence of *ex parte* decree dated 18.08.2020 only when the summons in the execution petition was received on 11.01.2023. Hence, the application for setting aside the *ex parte* decree along with an application under Section 5 of the Limitation Act for condonation of delay.

2.2. The applications were opposed by the respondent/plaintiff, contending that sufficient time and opportunity had been granted to the defendant. However, he failed to appear before the trial court. Therefore, there is no reason either to condone the delay or to set aside the *ex parte* decree.

2.3. The trial court, after hearing both sides and considering the materials on record, dismissed the applications. Aggrieved, the applicant/defendant has come up in appeal.

3. It is submitted by the learned counsel for the appellant/defendant that the reasons stated in the application for condonation of delay and the application for setting aside the *ex*



parte decree are genuine, which prevented the defendant from appearing before the trial court. It is submitted that though documentary evidence was produced, the trial court failed to consider the same and dismissed the applications, stating that no date of the accident has been specifically mentioned in the applications. The learned counsel points out that the documentary evidence would substantiate the grounds stated in the applications. The trial court failed to appreciate the materials on record, and therefore, the impugned order cannot be sustained and the same needs to be interfered with by this Court.

3.1. It is also submitted that there are no merits in the case filed before the trial court, and therefore, the interest of justice requires this Court to set aside the *ex parte* decree. The learned counsel also refers to the dictum in **Dwarika Prasad (D) v. Prithvi Raj Singh, 2024 SCC OnLine SC 3828**, in which it has been held that technicalities should not stand in the way and the Court, considering these applications, is required to allow these



applications in the interest of justice.

4. *Per contra*, it is submitted by the learned counsel for the respondent/plaintiff that no sufficient reasons have been made out and therefore, there is no infirmity in the impugned order calling for an interference by this Court.

5. Heard both sides.

6. As noticed earlier, the allegation in the applications is that the defendant met with two accidents, one in January and the other in May 2019. It is also stated that his mother was hospitalised in January 2019. Thereafter, his father passed away in the year 2020 during the COVID period. Though one of the grounds raised is that the appellant/defendant had met with an accident in January 2019, no date has been specified in the application. The learned counsel for the defendant was asked to specify the date on which the accident occurred. However, the counsel was unable to refer to any document or the pleadings, in which the date of the accident is referred to. The second accident is alleged to have occurred on



17.05.2019. There are no documents to substantiate the same.

7. Now, even assuming that all the aforesaid reasons stated are true, no explanation has been provided for the delay in not filing the application under Order IX Rule 13 CPC to set aside the *ex parte* decree, within the prescribed period of 30 days from the date of knowledge of the *ex parte* decree. Going by the case of the defendant, he came to know about the *ex parte* decree on 11.01.2023 when he received notice in the execution petition. Therefore, the application ought to have been filed within 30 days of the date of knowledge. However, the application for setting aside the *ex parte* decree and the application for condonation of delay is seen to have been filed on 07.05.2023 only, which is obviously much after the expiry of the said period, for which no reasons whatsoever have been stated in the applications.

8. In these circumstances, I find no infirmity in the impugned order calling for an interference by this Court.

9. The appeal, *sans* merit, is dismissed. Application(s), if any



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pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

DECEMBER 11, 2025

mj

Signature Not Verified

Signed By: KOMAL
DHAWAN
Signing Date: 15.12.2025
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