



2025:DHC:11061



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

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Date of decision: 08.12.2025+ **FAO 331/2025****BABITA & ANR.**

.....Appellants

Through: **Mr. K.S. Verma, Mr. Vipin Rana, Mr. Vinay Panwar and Mr. Vishu Verma, Advocates.**

versus

GEETA

.....Respondent

Through:

CORAM:**HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA****JUDGMENT (ORAL)****CHANDRASEKHARAN SUDHA, J.****CM APPL. 77380/2025**

1. Exemption allowed, subject to all just exceptions.

2. The application stands disposed of.

CM APPL. 77379/2025

3. This is an appeal under Order XLIII Rule 1 Code of Civil Procedure, 1908 (the CPC) filed by the applicants/defendants in Misc. DJ 117/2025 on the file of the Court of the District Judge-



01, (East), Karkardooma Courts, Delhi, aggrieved by the order dated 04.11.2025, by which their application under Order IX Rule 13 CPC and the application under Section 5 of the Limitation Act, 1963 (the Limitation Act) have been dismissed.

4. Initially, when the appeal came up before this Court on 28.11.2025, notice was issued to the respondent/plaintiff. However, today, an application for stay of the execution proceedings, being **CM APPL. 77379/2025** has come up for consideration. The learned counsel for the appellants/defendants is heard on the question of stay as well as the merits of the appeal.

5. The learned counsel for the appellants/ defendants submit that two advocates engaged to represent the appellants/defendants never appeared before the trial court, and therefore, the matter was proceeded *ex-parte*. It is stated that the appellants/defendants, for the first time, came to know about the *ex-parte* judgment only on 29.01.2025, when they received summons in the execution petition. Thereafter, a new counsel was engaged, who inspected



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the judicial file on 15.02.2025 and apprised them about the status of the case.

6. A perusal of the impugned order shows that the appellants/defendants entered appearance on 23.03.2023, and their appearance was also recorded on 19.09.2023. Therefore, the allegation in the application that they came to know about the decree only on receipt of the notice in the execution petition is apparently false and incorrect.

7. In paragraph 4 of the impugned order, the trial court refers to the names of the two counsels who, according to the appellants/defendants, were engaged to represent them but never appeared. Therefore, the entire blame has been put on the said two advocates stated to have been engaged. This practice of putting the entire blame on the counsel concerned has been deprecated by the Apex Court in **Rajneesh Kumar vs. Ved Prakash, 2024 SCC OnLine SC 3**.

8. On going through the impugned order, I do not find any



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reasons to either stay the execution proceeding or wait till notice is served upon the respondent/plaintiff, as it is quite obvious from the impugned order itself that no sufficient reason(s) have been shown for setting aside the *ex parte* decree or to condone the delay.

9. I find no infirmity in the impugned order calling for an interference by this Court.

10. In the result, the appeal *sans* merits is, thus, dismissed. Application(s), if any, pending shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

DECEMBER 08, 2025
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