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

+ **FAO (COMM) 13/2025, CM APPL. 2676/2025 (STAY) &
CM APPL. 2678/2025 (DELAY 15 DAYS IN RE-FILING)**

CHRISTOPHER PHOENIXAppellant

Through: Mr. N.P. Singh, Adv.

versus

AAR PEE APARTMENTS PVT. LTD. & ANR.

.....Respondents

Through: Mr. Akshay Dhawan, Adv. for
R-1.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

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16.01.2025

CM APPL. 2677/2025 (EX.)

Allowed, subject to all just exceptions.

The application stands disposed of.

CM APPL. 2678/2025 (DELAY 15 DAYS IN RE-FILING)

Bearing in mind the disclosures made in the application, the
delay of 15 days in re-filing the appeal is condoned.

The application stands disposed of.

FAO (COMM) 13/2025, CM APPL. 2676/2025 (STAY)

1. This appeal is directed against the order dated 28 September 2024 pursuant to which the application under Order IX Rule 13 of the Code of Civil Procedure, 1908 moved by the appellant for recall of the ex parte decree dated 06 July 2024 has come to be rejected.



2. The Commercial Judge has noted that the summons have been duly received by one Mr. Santosh Chandra, who is stated to be the caretaker of the appellant and was found present in the premises when summons were sought to be served. This fact is not disputed by the appellant. What is however contended is that Mr. Chandra had failed to apprise the appellant of the service of those summons. The said explanation clearly appears to be implausible. In any case, we find that against the principal decree a regular appeal has already been filed.

3. In view of the aforesaid, we find no ground to interfere with the order impugned.

4. The appeal fails and shall stand dismissed.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

JANUARY 16, 2025/RW