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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 454/2025 & CM APPL. 13701-13702/2025**

ANIL SINGH

.....Petitioner

Through: Mr. Amit Alok, Mr. Saurav Prakash
and Mr. Gaurav Prakash, Advocates.

versus

PAWAN GULATI

.....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER
10.07.2025

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1. None appears on behalf of the respondent despite advance service of notice.
2. The petitioner is defending a suit for recovery and was proceeded against *ex-parte*, as he did not appear before the learned District Judge on 10.10.2022.
3. According to learned counsel for the petitioner (defendant), the non-appearance was on account of the fact that a wrong date had been noted by his counsel. According to him, though the learned Trial Court had given the next date as 10.10.2022, but his counsel noted the next date as 10.02.2023 in his diary and, therefore, in the interregnum, he was proceeded against *ex-parte*.
4. An application, seeking setting aside of *ex-parte* order, filed by the

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petitioner has been dismissed, primarily, for the reason that such diary, in which a wrong noting had been made, has not even been placed before the Court to appreciate such contention. It was also noticed that the counsel for the defendant had not submitted his affidavit in support of said application and, therefore, the abovesaid application was dismissed on 18.09.2023.

5. A review was filed but such review was also dismissed on 08.11.2024 holding that the earlier order did not suffer from any error apparent on the face of record.

6. It is also apprised that though the suit was adjourned for hearing final arguments, the defendant has moved an application under Order VII Rule 11 CPC and learned Trial Court is hearing arguments on such application.

7. The next date of hearing before the Trial Court is stated to be 07.08.2025.

8. Since the application moved under Order IX Rule 7 CPC was dismissed for twin reasons, i.e. for the *non-production of diary* and *non-furnishing* of the affidavit by the learned counsel for the defendant, the present petition is disposed of with direction to the petitioner to file application afresh. Such application along with abovesaid requisite material, be filed before the learned Trial Court within a period of one week from today. Thus, along with such application, he would also submit affidavit of his advocate as well as photocopy of the diary, for kind perusal of the learned Trial Court.

9. The petitioner would also keep ready the original diary for consideration of the learned Trial Court.

10. The learned Trial Court is requested to consider said application and to dispose of the same in accordance with law, after giving due opportunity



of hearing to both the parties.

11. The petition is disposed of in the aforesaid terms along with all pending applications.

MANOJ JAIN, J

JULY 10, 2025

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