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

+ **FAO 137/2026**

**MAY AND BAKER PHARMACEUTICALS LIMITED**

.....Appellant

Through: Dr. Ishaan S. Sharma, Ms. Shambavi  
Sharma, Mr. Ayush, Mr. Mukun  
Ranjan and Mr. Shubham Shukla,  
Advocates

versus

**SATYA PAUL (SOLE PROPRIETOR OF RUNOS HEALTHCARE)**

.....Respondent

Through: None

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

% **30.04.2026**

**CM APPL. 29233/2026**

1. Allowed, subject to all just exceptions.
2. The applications are disposed of.

**FAO 137/2026**

1. By way of the present appeal, the appellant seeks to assail the order dated 16.03.2026, whereby the application filed by the appellant under Order IX Rule 9 CPC came to be dismissed.
2. Learned counsel for the appellant submits that the suit, upon being instituted, was first listed before the Trial Court on 04.06.2025, when the learned Presiding Officer was on leave. The matter was thereafter listed on 19.07.2025, when the Trial Court granted an opportunity to cure defects and



the matter was adjourned to 18.09.2025. However, on 18.09.2025, none appeared on behalf of the appellant due to an inadvertent communication gap, as the counsel who was handling the matter had left the law offices of the appellant's counsel. Consequently, the matter was not reflected in the counsel's diary, resulting in non-appearance, and the suit came to be dismissed for want of prosecution. Consequently, the said date could not be recorded in the main counsel's diary, resulting in non-appearance, and the suit came to be dismissed for want of prosecution as well as for the reason that the physical copy was not filed. He submits that the non-appearance was neither deliberate nor intentional and that sufficient cause was shown, which was not duly appreciated by the Trial Court.

3. A gainful reference is made to the decision of the Coordinate Bench of this Court in Sukhinder Singh & Ors. v. Gurbux Singh & Ors.<sup>1</sup>, wherein it was held as under:-

*“32. Order 9 Rule 9 of the Code, reads as under:*

*'R. 9. Decree against plaintiff by defaults bars fresh suit--(1) Where a suit is wholly or partly dismissed under 8, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside, and if he satisfies the Court that there was sufficient cause for his non-appearance when the suit was called on for hearing, the Court shall make an order setting aside the dismissal upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.*

*(2) No order shall be made under this rule unless notice of the application has been served on the opposite party.'*

*33. The order of dismissal may be set aside if sufficient cause for nonappearance is shown to the satisfaction of the Court. The words 'sufficient cause' have got to be construed with regard to facts and circumstances of each case.*

*34. Supreme Court in Collector, Land Acquisition Anantnag v. Mst. Katiji, (1987) 2 SCC 107 : AIR 1987 SC 1353, while interpreting the meaning of the words 'sufficient cause' held:*

*'The expression 'sufficient cause' employed by the Legislature is*

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<sup>1</sup> 2009 SCC OnLine Del 2588



*adequately elastic to enable the Courts to apply the law in a meaningful manner which subserves the ends of justice—that being the life-purpose for the existence of the institution of Courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court’’*

4. In view of the explanation furnished by the appellant and the settled position of law as noted hereinabove, this Court is satisfied that sufficient cause has been made out for non-appearance.
5. Considering that the suit was at the initial stage and summons were yet to be issued, it is deemed apposite to restore the suit to its original number and position, to be listed before the concerned Trial Court on 18.05.2026.
6. In view of above, the present appeal is disposed of alongwith the pending application.
7. A copy of this order be communicated to the concerned Trial Court.

**MANOJ KUMAR OHRI, J**

**APRIL 30, 2026**

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