



2026:DHC:4173



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

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Reserved on: 07th April, 2026

Pronounced on: 12th May, 2026

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RFA 636/2023, CM APPL. 40775/2023

1. SMT. CHAMAN LATA BHARDWAJ,

W/o Late Sh. R. K. Bhardwaj.

2. SH. ABHISHEK BHARDWAJ

S/o Late Sh. R. K. Bhardwaj.

3. SH. SHIVAM BHARDWAJ,

S/o Late Sh. R. K. Bhardwaj.

All R/o:-

Flat No. 101, Shri Shyam Society,

Rajendra Park Ext. D-Block,

Nangloi, New Delhi-110041

.....Appellant

Through:

Mr. Jai Wadhwa and Mr. Ronak
Karanpuria, Advs.

Versus

SMT. NIRMAL DEVI

W/o Late Sh. Krishan Chander Vats,

R/o H. No. 39, Village &

Post Office Mundka, Delhi-110041

.....Respondent

Through:

Mr. Aditya Sharma and Ms. Aditi,
Advs.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Regular First Appeal under Section 96 read with Order XLI of the Code of Civil Procedure, 1908 (*hereinafter referred to as 'CPC'*) has been filed against the Judgment dated 05.04.2023 and Order dated 17.01.2023



whereby the Suit filed by the Plaintiff for recovery of Rs. 8,50,000/- along with interest @ 12% p.a. till its realization, was decreed.

2. The Respondent/Plaintiff had filed a Suit for Recovery of Rs.8,50,000/- along with interest @24% p.a. from 01.02.2016 till its realization.

3. **The brief facts as per Complaint are** that the Plaintiff and her husband Late Sh. Krishna Chandra Vats, and Late Sh. Rajender Kumar Bhardwaj, husband of the Defendant no.1 i.e., were Government teachers in the same school, and were very close friends for almost 15-16 years. Defendant no.1 is a LIC agent and the Plaintiff and her husband, used to take LIC Policy from Defendant no.1.

4. Defendant no.1 and her husband, had taken a loan from the Plaintiff and her husband on several occasions, and repaid the same within due time, thereby gaining the trust of the Plaintiff and her husband. On 26.10.2014, the husband of the Plaintiff expired, and the Plaintiff received an approximate amount of Rs.18,74,789/- from the office of her husband, as serving amount/compensation amount, in March, 2015.

5. In the month of October 2015, Defendant No.1 and her husband contacted the Plaintiff for a friendly loan of Rs.10,00,000/- because they were in dire need of money.

6. Initially, the Plaintiff was reluctant, however, upon much insistence of Defendant No.1 and her husband, she agreed to give Rs.8,50,000/- as a loan. Consequently, an Agreement Deed dated 06.11.2015 was executed between Defendant No.1, her husband and the Plaintiff whereby the terms and conditions were agreed by both the parties, stating the amount of Rs.8,50,000/- to be given as a friendly loan by the Plaintiff to Defendant



No.1 and her husband, *for a period of 3 months w.e.f. 01.11.2015 to 31.01.2016*. Defendant No.1 and her husband, also gave a post-dated cheque bearing no. 953241 on 06.11.2015, to the Plaintiff, as a security, from the account of the husband of Defendant No.1.

7. Upon the expiry of three months, when the Plaintiff demanded the loan amount back, the husband of Defendant No.1 told Plaintiff to present the cheques, given as a security, in the bank after 15.02.2016. Subsequently, on 17.02.2016, when the said cheque was presented in the bank, the same was dishonored and returned with the remarks as “Insufficient Funds” *vide* return memo dated 19.02.2016.

8. Then, again the Plaintiff contacted Defendant No.1 and her husband regarding the dishonour of the said cheque, upon which the Defendant No.1 and her husband said that if the said cheque be presented again after two days, it will be honoured. However, when the said cheque was presented again on 20.02.2016, it was dishonoured with the remarks “Insufficient Funds” *vide* return memo dated 23.02.2016.

9. The Plaintiff, thereafter, again contacted Defendant No.1 and her husband and similar assurances were given, and asked the Plaintiff to present the cheque in March 2016. Then again, the Plaintiff presented the cheque on 05.03.2016 and the same was returned as “Insufficient Funds” *vide* return memo dated 08.03.2016.

10. Consequently, a Legal Notice dated 22.03.2016 was sent by the Plaintiff, to Defendant No.1 and her husband, calling upon them to repay the loan amount, to which, the husband of Defendant No.1 issued two new cheques bearing no.921979 for Rs.3,00,000/- dated 23.05.2016 and another cheque bearing no. 921980 for Rs.5,50,000/-dated 10.10.2017, stating that



they are not in sound position and financially incapable to pay the loan amount.

11. It was further submitted that in the month of May 2016, the Plaintiff again contacted Defendant No.1 and her husband for presenting the cheque dated 23.05.2016, upon which Defendant no.1 and her husband requested Plaintiff that the said cheque be presented in the month of November, 2017, along with the other cheque dated 10.10.2017, as they would receive some amount in the month of November, 2017. Due to cordial relations, the Plaintiff gave the Defendants more time and presented the cheque bearing no. 921980 dated 10.10.2017, on 08.11.2017 which was again dishonoured *vide* returning memo dated 09.11.2017 with the remarks as “Insufficient Fund”.

12. Then again, the Plaintiff contacted the Defendants and demanded the loan amount, however, the Defendant no.1 refused to pay because her husband had expired.

13. Further, the Plaintiff visited the house of the Defendants just for the condolence after death of husband of Defendant no.1 and father of defendant no.2 and 3, as well as for requesting for the loan amount of Rs.8,50,000/-, but the Defendants misbehaved with the Plaintiff, and was told that she was not permitted to even enter into their house, and the Defendants also stated that there is no relation between them and the amount received by them from the Plaintiff, shall be forgotten as they would not pay any amount to anyone.

14. Further, again on 18.12.2017, another Legal Notice was sent by the Plaintiff to the Defendants, demanding the loan amount of Rs.8,50,000/-, to which the Defendants sent a reply dated 30.12.2017 wherein they denied taking any such loan and issuing any cheques to the Plaintiff.



15. Thereafter, the Plaintiff filed a *Suit for Recovery of Rs.8,50,000/- along with interest @24% p.a. from 01.02.2016 till its realization.*

16. **The Defendants in their Written Statement took a defence** that Rajender Kumar Bhardwaj never took any loan from the Plaintiff and the signatures on the aforesaid cheques are forged and fabricated, and are not in the handwriting of the husband of Defendant No.1 i.e. Rajender Kumar Bhardwaj; and it was also submitted that none of the Defendants has inherited any assets from the deceased husband of Defendant No.1. Furthermore, the Agreement dated 06.11.2015 was also never signed by the Defendant No.1 and her husband.

17. The *Issues* on the pleadings were framed by the learned Additional District Judge on 09.12.2019 as under:

“Issue No.1: Whether plaintiff has no cause of action to file the present suit against the present defendants as they have not inherited the assets of Sh. R.K. Bhardwaj? OPD.

Issue No.2: Whether the signatures of Sh. R.K. Bhardwaj on the cheque in question are forged and fabricated? OPD.

Issue No.3: Whether plaintiff is entitled for recovery of sum of Rs.8,50,000/- as prayed for? OPP.

Issue No.4: Whether plaintiff is entitled for pendente lite and future interest @ 24% per annum as prayed for? OPP.

Issue No. 5: Relief.”

18. **The Plaintiff to prove her case**, examined herself as PW-1 and tendered her evidence by way of affidavit as Ex.PW-1/A wherein she relied upon relevant documents from Ex.PW-1/1 to Ex.PW-1/14 and reiterated the averments made in the Plaint.



19. **PW-2, Sh. Puneet Chaudhary**, from State Bank of India, brought the duly certified record of bank account bearing no. 10472717323, maintained by the Plaintiff, from 01.01.2015 to 31.05.2015, and proved the same.

20. **PW-3, Sh. Satendra Kumar Bhatnagar**, the branch manager of the Union Bank of India, brought the record of bank account bearing no. 272710100000469 maintained by the Plaintiff, from September 2015 to June 2015, and proved the same.

21. **PW-4, Sh. Sunil Kumar Vats**, son of the Plaintiff tendered his evidence by way of affidavit as Ex.PW-4/A, wherein he also relied upon relevant documents from Ex.PW1-1 to PW-1/14 and reiterated the averments made in the Plaint, and further stated that the Agreement Deed dated 06.11.2015 Ex.PW-1/3 executed between the parties, bears his signature also.

22. **PW-5, Sh. Hari Prakash**, who was a witness to the execution of Agreement Deed dated 06.11.2015, identified the signatures of Sh. Rajender Kumar Bhardwaj, Smt. Chaman Lata and Smt. Nirmal Devi. He stated that Agreement dated 06.11.2015 was executed in his presence and also bears his signature, and proved the Agreement Deed dated 06.11.2015 Ex.PW-1/3.

23. *However, before the Plaintiff could lead her evidence, the COVID-19 pandemic disrupted court operations, resulting in nearly a year without effective hearings. On 12.04.2021, the Defendants failed to appear. The subsequent Court Notices returned unserved, reporting that the defendants had not lived at the provided address for years. Thereafter, the Defendant No. 1 eventually appeared and gave her updated address on record. However, on 10.05.2022, when the matter was set for the Plaintiff's*



evidence, the Defendants again failed to appear despite repeated calls and were consequently proceeded ex-parte.

24. The **learned Trial Court after appreciating the evidence, observed** that the Defendants have failed to explain how the cheques in question, admittedly belonging to Sh. Rajender Kumar Bhardwaj, came into possession of the Plaintiff, and all three legal heirs of Sh. Rajender Kumar Bhardwaj are liable to clear his liabilities as they are entitled to succeed his estate as well.

25. Accordingly, the ***learned Additional District Judge*** decreed the Suit of the Plaintiff and directed the Defendants are liable to pay Rs.8,50,000/- along with interest @ 12% p.a. from the date of filing of the Suit till its realization.

26. Aggrieved by the Judgment dated 05.04.2023 and Order dated 17.01.2023, the Appellant/Defendant ***has preferred the present Appeal.***

27. The ***grounds of challenge are*** that Ld. Trial Court failed to appreciate that the signatures on the aforesaid cheques are forged and are not in the handwriting of deceased Sh. Rajender Kumar Bhardwaj. Therefore, when Defendant took a specific defence of non-signing of documents, then Plaintiff ought to have proved the signatures of Defendant no.1 and her husband, by the Forensic Experts.

28. The Defendants have not inherited any assets of Sh. Rajender Kumar Bhardwaj. Thus, in the light of this specific defence, burden of proof should have been put upon the Plaintiff to prove that Defendants has inherited any assets.

29. The learned Trial court failed to appreciate that due to the demise of counsel for Defendants, they were not represented, and the Defendants were



also financially weak and therefore, could not engage any another counsel and had to get the services of Legal Services Authority.

30. The learned Trial Court erringly held that the Application under Order IX Rule 7 CPC was filed with delay, and further did not prescribe any limitation period. Therefore, in such situations Article 137 of Limitation Act is applicable, which prescribes a period of 3 years of limitation period.

31. Reliance is placed upon Visalakshi Vs. Umpathy 2015 (5) CTC 67, wherein it was held that since Order IX Rule 7 lacks a prescribed limitation period, Article 137 of Limitation Act applies by default, imposing a three-year limit for filing.

32. The learned Trial Court erred in rejecting the Application based on the Defendant's failure to cross-examine the Plaintiff. The delay was justified by the COVID-19 pandemic and the fact that the Plaintiff requested most of the adjournments. Aside from one instance where the defense counsel was ill, the defendant was not responsible for the lack of progress in the proceedings.

Submissions heard and record perused.

33. Admittedly, the parties were long-standing colleagues and family friends. The Plaintiff advanced a friendly loan of Rs.8,50,000/- under a written Agreement dated 06.11.2015, and multiple cheques were issued by late Sh. Rajender Kumar Bhardwaj to cover their loan liability but were repeatedly dishonoured for insufficiency of funds. The Suit was ultimately proceeded *ex parte* when, despite repeated reminders and opportunities, the Defendants chose not to participate in the proceedings.

34. The grounds of challenge are twofold; **firstly**, the signatures on the cheques and the Agreement are forged and, therefore, in the face of such a



specific plea, the Plaintiff was obliged to get the documents examined by a handwriting or forensic expert. **Secondly**, the Defendants have not inherited any estate of the deceased, and thus no decree could have been passed against them in their capacity as legal heirs.

35. The Appellants further challenges the dismissal of the Application under Order IX Rule 7 CPC, specifically addressing the prejudice caused due to the demise of their counsel and the COVID-19 pandemic.

Plea of forgery and burden of proof:

36. Pertinently, the Defendants in their Written Statement raised a bald plea that the signatures on the cheques and on the Agreement Deed dated 06.11.2015 were forged and fabricated. However, they stopped appearing at the stage of evidence; they neither subjected the Plaintiff and her witnesses to cross-examination nor led any evidence in support of their defence.

37. The learned Trial Court has rightly observed that PW-1 the Plaintiff, PW-4 Sh. Sunil Kumar Vats and PW-5 Sh. Hari Prakash, deposed to the execution of the Agreement and the issuance of cheques. PW-5 specifically identified the signatures of late Sh. Rajender Kumar Bhardwaj as well as of Defendant No.1 on the Agreement. Their testimony remained un rebutted.

38. A mere plea of forgery taken by the Appellants, without any particulars, proof, or even an attempt at cross-examination, cannot displace documentary evidence proved through primary witnesses and supported by bank records and cheque return memos. Once execution of Loan Agreement and issuance of cheques, to establish the friendly loans advanced, are proved, the burden shifted squarely on the Defendant to rebut the presumption that such cheques were not issued or were not towards a legally



enforceable liability. If the defendant fails, the Plaintiff is entitled to a decree, on the standard of preponderance of probabilities.

39. The contention that the Plaintiff was bound, as a matter of law, to have the signatures proved only by a forensic expert, is misconceived. Expert evidence is merely one mode of proof; it is neither mandatory nor conclusive.

40. When the Plaintiff has produced the original Agreement dated 06.11.2015 Ex. PW-1/3, the cheques bearing nos. 953241, 931979 and 921980 issued by the husband of Defendant No.1 on various occasions and bank records of the Plaintiff Ex.PW-1/2, and has examined not only herself, but also the attesting witness i.e. Sh. Hari Prakash who has identified the signatures, and when such evidence has gone unchallenged, the Trial Court cannot be faulted for accepting the execution of the documents.

41. The onus to substantiate the plea of forgery rested heavily on the defendants; they chose to abandon their defence at the stage of evidence and cannot now, seek to take advantage of their own default, in Appeal. The Appellants have failed to prove that there was no loan given or that the Loan Agreement was not signed or that various cheques were not issued by Late Sh. Rajender Kumar Bhardwaj, in discharge of his liability, under the Loan Agreement.

Liability of legal heirs and inheritance of estate:

42. The second contention of the Appellants is that none of the Defendants inherited any estate of late Sh. Rajender Kumar Bhardwaj, and therefore, they could not have been saddled with his alleged liability.

43. It is settled that legal heirs are liable for the debts of the deceased only to the extent of the estate inherited by them. However, once the



relationship and status as Class-I legal heirs are admitted or established, the burden necessarily shifts on such heirs to disclose the nature of the estate, if any, and to show that either no estate has devolved upon them or that the estate is insufficient to meet the liability.

44. This plea was merely asserted in the Written Statement, however, no particulars were given as to what properties, movable or immovable, constituted his estate, and how or in what manner the same did not devolve upon the Defendants. No material has been brought on record to show that there was no estate, or that it stood divested before his death.

45. Thus, the learned Trial Court rightly observed that even though no evidence was led by the Defendants to show that the Defendants have not inherited the assets of Sh. Rajender Kumar Bhardwaj, they have not denied the being the legal heirs of Late Sh. Rajender Kumar Bhardwaj. Moreover, this is a plea to be taken in Execution, and not in the Suit, wherein only the legal liabilities of the parties are adjudicated.

Dismissal of the Application under Order IX Rule 7 CPC and Limitation:

46. The Appellants have also asserted that the dismissal of their Application under Order IX Rule 7 CPC *vide* order dated 17.01.2023, was wrong, since no specific period of limitation is prescribed for such an Application. Article 137 of the Limitation Act, 1963, provides a three-year period, which ought to have been applied. In support, reliance has been placed on Visalakshi(supra) wherein it was held that Article 137 of Limitation Act was held applicable to Applications under Order IX Rule 7 CPC. However, various decisions of High Courts have observed that no period of limitation governs such Applications and that the overarching test is *whether “Sufficient Cause” for the earlier non-appearance is made out.*



47. It is, therefore, evident that the Applicant must still establish “Sufficient Cause” for the non-appearance during the trial. The Supreme Court, in Arjun Singh v. Mohindra Kumar 1964 SCR (5) 946 and G.P. Srivastava v. R.K. Raizada (2000) 3 SCC 54, has emphasized that “*sufficient cause*” postulates a *bona fide*, diligent explanation and does not extend to cover negligence or prolonged inaction on the part of the litigant.

48. Likewise, in Parimal v. Veena @ Bharti (2011) 3 SCC 545, it has been held that a party cannot be permitted to remain inactive after service and then seek to shift blame entirely to his counsel or general circumstances, nor can such vague pleas be treated as a passport to unsettle *ex parte* orders.

49. In the present case, after having participated in the proceedings and filing the Written Statement, the Defendants repeatedly remained absent, despite service of Court notices. The plea taken in the Application was confined to general averments about the demise of counsel, financial constraints and disruption due to the COVID-19 pandemic, without any particulars or supporting material. The learned Trial Court’s refusal in recalling the *ex parte* order, is therefore, justified.

Conclusion:

50. Thus, **Appellant has not been able to point out any infirmity** in the Impugned Judgment dated 05.04.2023 and Order dated 17.01.2023.

51. Therefore, **there is no merit in the Appeal**, which is hereby **dismissed**. Pending Applications, if any, stands disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 12, 2026

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