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

+ **FAO (COMM) 292/2025 & CM APPL. 66003/2025**

MANOJ PRASAD

.....Appellant

Through: Mr. Rahul Kumar, Mr. Piyush M
Dwivedi and Mr. Abhishek Dwivedi,
Advs.

versus

BANK OF BARODA

.....Respondent

Through: Ms. Chanchala Kumari, Adv.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER

06.05.2026

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1. The appellant (original defendant no. 3) suffered a decree for recovery of the loan amount, for which he stood as guarantor. Defendants no. 1 and 2 were the borrowers.
2. It is the case of the appellant that the suit summons were not properly served upon him, as he was employed with the Indian Railways and was discharging duties as a Locomotive Operator. As he was not available at home when the suit summons were served, there can't be an inference of effective service of summons on the appellant. As a sequel of which, there was denial of an opportunity to represent and resist the suit claim.
3. The fact remains that from the order under challenge, which was passed in exercise of powers under Order IX Rule 13 of the Code of Civil



Procedure, 1908 ('Code'), the claim of the appellant for setting aside the decree for want of service of suit summons was rejected and a categorical finding was recorded that the suit summons were served on the appellant.

4. The burden, as such, shifted on the appellant to demonstrate that the suit summons were not properly served upon him.
5. When confronted, we are unable to accept the contention raised by counsel for the appellant that the order under challenge, passed in exercise of powers under Order IX Rule 13 of the Code, is cryptic and does not deal with the aforesaid issue in detail.
6. It may be so that the reasons furnished do not satisfy the requirement of the appellant, however, that by itself cannot render the order/judgment illegal or unsustainable in law, particularly when the appellant has failed to discharge the burden of demonstrating that he was not properly served in the suit proceedings. As such, no fault can be noticed in the impugned judgment/order dated 18th August, 2025.
7. The appeal, as such, lacks merit and stands dismissed.
8. Pending applications, if any, also stand dismissed.
9. Order be uploaded on the website of this Court.

NITIN WASUDEO SAMBRE, J

AJAY DIGPAUL, J

MAY 6, 2026/sky/sk