



\$~49

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

+ **RFA 521/2010**

HEM RAJ SHARMA

.....Appellant

Through: None.

versus

RAJESH KUMAR

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

13.01.2026

%

1. This hearing has been done through hybrid mode.
2. The present appeal under Section 96 read with Order XLI of the CPC has been filed seeking the following prayers: -

“i) set-aside the impugned judgment and decree dated 21-4-2010 Passed in suit no. 136/09 by sh. Pitamber Dutt, A.D.J. (central-17), Delhi case titled as "Rajesh Kumar v/s. Hem Raj Sharma " in favour of the plaintiff and against the defendant; And also set aside the order dated 19.4.10 passed on the application u/s 165 of Evi. Act.
(ii) Pass such further order/orders as this Hon'ble court may deem fit and Proper in the just circumstances of this case in the interest of justice and fair play.”

3. *Vide* order dated 01.08.2011, following order was passed by learned Predecessor Bench of this Court: -

“RFA 521/2010

1. List for hearing on 12th September, 2011.



2. The appellant is directed to file an affidavit of his assets as well as income in Form 16A, Appendix E, under Order XXI Rule 41 (2) of the Code of Civil Procedure within two weeks. The affidavit shall cover the period from the date on which the decree was passed up to today. The appellant shall also attach the copies of all the relevant documents relating to his assets and income along with the affidavit. The appellant shall produce all original documents relating to his assets and income on the next date of hearing.

3. Both the parties are directed to remain present in Court on the next date of hearing.

CM No.13639/2010

1. Subject to the deposit of the principal loan amount of ₹3,00,000/- by the appellant with the Registrar General of this Court within four weeks, the execution of the impugned judgment and decree shall remain stayed. Upon the aforesaid deposit being made, the Registrar General of this Court is directed to keep the same in fixed deposit till further orders.

2. The application is disposed of.”

4. Thereafter, on 17.11.2011, following order was passed: -

“C.M. No. 13639/2010 (Stay)

Learned counsel for the appellant states that appellant/defendant has no money to deposit the decretal amount in the Court.

As per provisions of Order 41 Rule 5 CPC, the plaintiff must get the fruits of his decree. Since the appellant is not ready to deposit the decretal amount in this Court, this application is dismissed.

RFA No. 521/2010

Admit.



List this appeal in the category of "*Regular Matters*" as per the year of its seniority."

5. None appears on behalf of the appellant today.
6. There was no appearance on behalf of the appellant on the last date of hearings as well, *i.e.*, 29.11.2024, 05.12.2024, 11.12.2024, 17.12.2024, 10.02.2025, 02.05.2025, and 19.08.2025.
7. *Vide* order dated 02.05.2025, Court notice was issued to the parties. Report with regard to service of the said notice to the appellant shows that it has come back with the following remarks: -

“Ordinary: appellant- Unserved (no such person at the given address); Respondent- Served.
Speed post- appellant- returned by Dispatch Branch for want of PIN code number; Respondent awaited.
Courier- awaited.”

8. In view of the above, the present appeal is dismissed in default for non-prosecution and disposed of.
9. Pending application(s), if any, also stand disposed of accordingly.

AMIT SHARMA, J

JANUARY 13, 2026/kr