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

+ RFA 445/2009

AMAR MISHRA

.....Appellant

Through: None

versus

DINA NATH

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

30.03.2026

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1. This hearing has been done through hybrid mode.
2. The present appeal under Section 96 of the CPC seeks the following prayers:-

“a) the impugned judgment and decree dated 30.10.2009 passed by the Ld, ADJ, Delhi in Suit No. 701/08/03 titled as Dina Nath versus Amar Mishra may kindly be set aside/ quashed and the aforesaid suit filed by the respondent may kindly be dismissed in the interest of justice .

b) Cost of the appeal may also be awarded.

Or such other order (s) be passed or reliefs be granted as this Hon’ble Court may deem fit and proper having regard to the facts and circumstances of the case.”

3. None appears on behalf of the appellant today.
4. *Vide* order dated 02.12.2009, learned Predecessor Bench of this Court had passed the following order:-



“On appellant depositing entire decretal amount with the Registrar General of this court, within four weeks from today, the operation of the Impugned judgment and decree dated 30.10.2009 passed In Suit No. 701/08/03 titled as Dina Nath Vs. Amar Mishra, Is stayed till further order.

Reply be filed within four weeks. Rejoinder, If any, be filed within two weeks thereafter.

List on 15th February 2010.”

5. Thereafter, the decretal amount was not deposited by the appellant in terms of the aforesaid order, and *vide* order dated 15.02.2010, time was sought for moving an application within a period of one week for seeking extension of time for depositing the decretal amount.

6. The appellant then, moved an application, **CM No. 3022/2010**, seeking modification of the order dated 02.12.2009, and after hearing the parties, learned Predecessor Bench passed the following order on 12.08.2010:-

“+ CM NO.17123/2009 (STAY) & CM NO.3022/2010

This is an application seeking stay of the Impugned judgment and decree dated 30.10.2009. This court by order dated 02.12.2009 had directed the appellant to deposit the decretal amount within a period of four weeks. Admittedly, this amount has not been deposited, however, the appellant has moved an application being CM.No.3022/2010 seeking modification of the order 02.12.2009.

Heard counsel for the parties and for the reasons stated In the application, the application (CM.No.3022/2010) for modification of the order dated 02.12.2009 is allowed. Subject to the appellant's depositing 50% of the decretal amount within a period of eight weeks from today, operation of the Impugned judgment/ decree shall remain stayed.

Applications stand disposed of.



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List on 22.11.2010, on which date the court will, make an endeavour to hear the appeal.”

7. A perusal of the record shows that the aforesaid direction was not complied with, and subsequently, on 05.07.2011, the following order was passed by learned Predecessor Bench of this Court:-

“2. Vide order dated 27th November, 2009, the appellant was directed to deposit the entire decretal amount within four weeks. Vide order dated 2nd December, 2009, the operation of the impugned judgment and the decree was stayed on the appellant depositing the entire decretal amount. It is noted that the appellant has not deposited any amount in terms of the orders dated 27th November, 2009 and 2nd December, 2009. In that view of the matter, the order dated 2nd December, 2009 is clarified to the extent that there is no stay of the operation of the impugned judgment and decree.”

8. There has been no appearance on behalf of the appellant on the previous dates of hearing, *i.e.*, 11.12.2024, 17.12.2024, 28.04.2025, and 11.12.2025, as well .

9. Report with regard to Court notice issued to the appellant *vide* order dated 28.04.2025 has come back unserved with remarks that, ‘sold out the house’.

10. In these circumstances, the present appeal is dismissed in default for non-prosecution and disposed of accordingly.

11. Pending application (s), if any, also stands disposed of.

12. Order be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J

MARCH 30, 2026/nk