

IN THE COURT OF Sri Gauri Shankar, Sub-Judge-I, Dumraon

**Miscellaneous Case No. 70 of 2025.**  
**Shyamrathi Devi vs. Ramlal Goushwami & Ors.**

<b><i>Date of Order</i></b>	<b><i>Order with initials of the Judge.</i></b>	<b><i>Remarks.</i></b>
<b>07-03-2026</b>	<p>The file is posted for final order on Miscellaneous Application filed under Order IX Rule 4 of the C.P.C. The plaintiff, Shyam Rathi Devi filed this application to restore their original money suit having No. 01 of 2023 (“the money suit”), which was rejected by this court for non-deposit court fee. The application was filed within nine month after the dismissal of the suit, i.e. on 17-12-2025.</p> <p><b><u>ISSUES FOR DETERMINATION</u></b></p> <p>The issue before this court is whether the applicant, the plaintiff, has succeeded in satisfying this court that there was sufficient cause under Order IX, R.4, for his non-deposit of court fee of the suit on 28.02.2025. Shyam Rathi Devi has asserted that she could not deposited the court fee in this case, due to illness of her husband.</p> <p>Money Suit No. 01 of 2023 was pending in this court. The suit was fixed for rejoinder of defendants and after that hearing. On that very day the plaintiff namely Shyam Rathi Devi did not appear before the court and he was not submitted the required document in this court since various dates. Here the plaintiff/applicant did not appear and the court on 28.02.2025 and her case was rejected. The plaintiff then filed this application for restoration of the suit.</p> <p>During the proceeding the applicant, produced total two witnesses namely Shyam Rathi Devi (AW-1) plaintiff/applicant &amp; Ashish Shankar Rai(AW-2) in its favour.</p> <p>Perused the record the money suit no. 01 of 2023, the suit was pending for the deposit of court fee.</p> <p>AW-1, Shyam Rathi Devi, has stated in her examination in chief that she was badly engaged for treatment of her husband due to that she has not been complied the order dt. 16.01.2023 of the court. She has knowledge about the dismissal of the suit on 28.02.2025. The applicant has also filed prescription of treatment her husband’s namely Paras Nath Goushwami as documentary evidence. No one appear for cross-examine in this case.</p> <p>AW-2 Ashish Shanakar Rai, who has identified the writing and signature of Dr. Chitresh Yadav, Dr. Jyoti Chakravarti &amp; Dr. Shruti Dogra on the prescription of the husband of applicant Paras Nath Goushwami, which are marked as ext. 1, 1A &amp; 1B respectively. No one</p>	

appear for cross-examine in this case.

Thus on the basis of the evidence led, this court will deal with the relevant questions, one by one.

The case-record of the suit reveals that the plaintiff was not regular in her pairvi in the suit, due to stay outside the village for treatment of her husband, so there is no knowledge about fixed date in this case.

Shyam Rathi Devi filed this restoration petition after the period of limitation i.e. on 17.12.2025.

### **CONCLUSIONS**

Thus on the basis of discussions this court comes to the conclusion that there is a sufficient cause and the Money Suit no. 01 of 2023 can be restored. The Misc. App. no.70/25 is allowed. In the result it is directed that the Money Suit no. 01 of 2023 be restored to its original status on the cost of Rs. 1500/- only. The next date of hearing of the suit is fixed on 20.03.2026.

**Gauri Shankar  
Sub-Judge-I, Dumraon**