

**In the Court of Sh. Ashwani Kumar Sarpal, Principal
District & Sessions Judge, East District,
Karkardooma Courts, Delhi.**

Sh. Jitender Yadav

vs.

Sh. Pawan Kumar Sharma

(Ex. No. 14/2025)

(Objection application moved by the JD U/S 47 CPC)

24.03.2026.

ORDER:-

- 1) DH filed a suit for recovery of Rs. 3,50,000/- with interest on 05.07.2024 under Order 37 CPC in respect of dishonour of one cheque bearing no. 476476 dated 08.09.2023 for sum of Rs. 3,50,000/- drawn on Canara Bank, Nirman Vihar Branch, Delhi issued by the JD. According to the averments of the suit, JD had taken a friendly loan of Rs. 3,50,000/- through bank transfer for a period of 6 months from DH and in order to pay the same had issued the cheque in question which was bounced.
- 2) The summons of the suit on prescribed format was issued to the JD but he did not file any appearance within a prescribed period of 10 days. Subsequently, he filed appearance alongwith an application u/s 5 of Limitation

Act for condonation of delay but the same was rejected by my Id. Predecessor vide order dated 07.10.2024 and decree was passed by which JD was directed to pay Rs. 3,50,000/- with pendentlite and future interest @ 8% per annum alongwith the costs.

- 3) JD thereafter, moved an application under Order 37 Rule 4 CPC bearing M. No. 623/2024 for setting aside the judgment and decree dated 07.10.2024. This application was dismissed by my Id. Predecessor vide order dated 22.11.2024. Thereafter, JD moved review application bearing Misc. DJ No. 9/2025 for review of the order dated 22.11.2024, but it was also dismissed on 16.05.2025.
- 4) Subsequently, JD approached the Hon'ble High Court in CM (M) No. 1639/2025 against the order dated 16.05.2025 and that petition has been finally dismissed on 07.11.2025. Thus, the decree dated 07.10.2024 has become final, binding and enforceable. Nazir has reported that sum of Rs. 3,98,837/- has become due as on 19.01.2026.
- 5) The warrants of attachment of movable property of the JD was once issued but a report came that no sufficient article for attachment could be found at his address. After the dismissal of the petition in the Hon'ble High Court on 07.11.2025, this court vide order dated 19.01.2026 directed for issuing of arrest warrants against the JD but he filed the present objection application on 24.01.2026.
- 6) In this objection application accompanied with some documents, JD stated that he had not taken any friendly loan of Rs. 3,50,000/- from the DH nor issued any cheque

to him in first week of September, 2023 as stated by DH in his plaint of the suit. On the other hand, he stated that in mid of September, 2021, he had asked for financial help from the DH and received total Rs. 2,16,000/- in three parts (Rs. 95,000/- on 23.09.2021, Rs. 75,000/- on 22.08.2022 and Rs. 46,000/- on 15.10.2022) as friendly loan for a period of two years returnable in the monthly installments of Rs. 10,000/- per month. He further stated that he had already refunded sum of Rs. 1,36,300/- to DH and his friends Mohd. Inam and Sh. Abhishek as per instructions of DH received on phone call and Whatsapp messages. According to JD, he had handed over one blank signed cheque in question as a security of the loan amount in October, 2022 to DH which has been misused by him and he had not produced any corroborative evidence to establish giving of alleged loan.

- 7) The story of the JD as set up in this objection application cannot be now considered as it was his defence but he did not complete the necessary formalities of law in filing his appearance in suit under Order 37 CPC in time. Now, when he has already lost upto Hon'ble High Court and decree has become final, then he cannot agitate his alleged defence now at execution stage. The executing court cannot go behind decree which virtually has become final after decision of Hon'ble High Court. JD has to suffer the consequences of his own defaults, negligence and inaction because law says that allegations made in the plaint in a suit for recovery under Order 37 CPC are deemed to be admitted in case appearance is not filed within the

prescribed period of 10 days. JD had already lost opportunity now to contest the case. He might had plausible defence (if is presumed to be existing for sake of arguments) but failure to come in court in prescribed time had extinguished his that defence. JD at this execution stage is debarred to set up his defence in the form of an objection application as now it is not permissible to go behind the decree especially when the same is already confirmed by Hon'ble High Court due to dismissal of petition of the JD.

- 8)** Accordingly, I find no ground to allow the objection application of the JD. Same is hereby dismissed. JD is under obligation to obey the decree as it is, otherwise he has to face the consequences of its non compliance. Nazir is directed to give fresh report of the amount payable by the JD.
- 9)** It is also ordered that amount already deposited by JD in court be given to DH after expiry of 15 days from today and in between, JD can approach Hon'ble High Court and can obtain stay order. He is also given time to deposit balance amount on or before next date of hearing, otherwise he can be sent to civil imprisonment. Objection application is disposed off.

(Ashwani Kumar Sarpal)
Principal District & Sessions Judge
East District, KKD, Delhi/24.03.2026.