

20.07.2026

Present : Sh. Ganga Singh, ld. counsel for the applicant along with applicant.

The file of execution petition has been called.

Despite repeated calls, none has appeared on behalf of the respondents. Accordingly, the respondents are proceeded against ex parte for the purpose of adjudication of the present application.

Through the present application filed under Section 151 CPC, the decree-holder seeks restoration of Execution Petition No. 264/2018, which was dismissed in default and for non-prosecution, to its original number and position. It is stated that the execution petition was filed in the year 2011 for execution of the decree dated 13.12.2010 and that, since its institution, the decree-holder had been regularly appearing before the Court and had never remained absent, the present being the first instance of non-appearance. It is submitted that the execution petition was listed on 31.10.2025 and thereafter on 14.11.2025; however, the learned counsel for the decree-holder inadvertently failed to note the next date of hearing, i.e., 14.11.2025, in his diary, and the decree-holder was also unaware of the said date. Consequently, neither the decree-holder nor his counsel appeared on 14.11.2025. It is further submitted that, as the decree-holder remained unaware of the subsequent dates, he

also could not appear on 21.11.2025 and 28.11.2025, resulting in the execution petition being dismissed in default and for non-prosecution. It is further averred that on 04.12.2025, when the decree-holder enquired from his counsel regarding the next date of hearing, the counsel checked the e-Courts application and came to know that the matter had been listed on 14.11.2025, 21.11.2025 and 28.11.2025, and had ultimately been dismissed in default and for non-prosecution. It is also submitted that the execution petition has remained pending since 2011 and that the judgment-debtor, during his lifetime, had made part-payment towards the decretal amount, thereby acknowledging his liability. After the death of the judgment-debtor, his legal representatives were brought on record, who also sought time from the decree-holder as well as from this Court to make the remaining payment but failed to honour their assurance. It is contended that the dismissal of the execution petition on account of a technical default and non-prosecution has caused grave prejudice to the decree-holder and that, if the execution petition is not restored, he would suffer irreparable loss and injury, whereas no prejudice would be caused to the judgment-debtor or his legal representatives if the execution petition is restored. It is further submitted that the absence of the decree-holder on the aforesaid dates was neither intentional nor deliberate but occurred due to bona fide reasons, namely, the inadvertent omission on the part of counsel to note the date of hearing and the consequent lack of knowledge of the subsequent dates. It is lastly submitted that this Court possesses

inherent powers under Section 151 CPC to restore the execution petition in the interest of justice.

Ld. counsel for the applicant/DH argued on the lines of his application and reiterated the averments made therein.

I have heard the learned counsel for applicant, carefully perused the record.

The non-appearance of the decree-holder on the relevant dates does not appear to have been deliberate, mala fide or attributable to gross negligence.

Accordingly, in the interest of justice, the present application is allowed.

Let Execution Petition No. 264/2018 be restored to its original number and position and be listed on 21.08.2026.

The present application file be tagged with the execution petition after due compliance.

(Vikas Garg)
DJ-05/East/KKD
Delhi/20.07.2026