

23.05.2026

Present: Ld. Counsel for applicant with applicant.
Ld. Counsel for non-applicant with non-applicant.

Arguments on the present application U/O IX Rule 13 CPC
heard.

Let record of CS No. 90/2020 titled as 'Pinki Vs. Parvesh
Kumar & Anr. decided vide order dated 15.01.2025 by the Court of Ms.
Prigya Gupta, Ld. SCJ (NE), KKD Courts, Delhi be called.

Put up after one hour.

Aashish Gupta
DJ-01/NE/KKD/DELHI
23.05.2026

After one hour

ORDER

Present: None.

1. TCR of CS No. 90/2020 received. Perused.
2. Applicant was the defendant in CS No. 53/22 titled as 'Pinki Vs. Parvesh Kumar'. The said suit was filed by non-applicant/plaintiff seeking a decree of specific performance against the applicant.
3. For easy reference, parties shall be referred to by their rank in CS No. 53/22. In the said suit, defendant is stated to have suffered an ex-parte order dated 11.07.2023 and eventually, the said suit was decided against the defendant vide judgment and decree dated 07.08.2024.

4. Defendant wants setting aside of said judgment and decree on the premise that he was never served with the summons of the said suit.
5. It is pertinent to note that in the suit in question, defendant was served by way of publication in newspaper 'Veer Arjun' dated 07.03.2023 and was eventually proceeded ex-parte on 11.07.2023. It is the contention of the defendant that **since 2020 till 2023 defendant was residing on rent at Sharma Niwas, Ground Floor, Gali No. 3, nearby Pooja Medical Store, Sector-44, Noida, U.P.**
6. It is his contention that he gained knowledge of the ex-parte judgment and decree on 03.01.2026 only and has thus, moved the present application on 07.02.2026.
7. On the other hand, plaintiff has filed her reply to the application and has strongly resisted it on multiple grounds.
8. Firstly, it is argued that plaintiff and defendant were parties in a separate litigation bearing CS No. 90/2020 titled as 'Pinki Vs. Parvesh Kumar & Anr.' wherein the address as reflected in this case was the address reflected in the said suit. The said suit was recently compromised between the parties on 15.09.2025 in the Court of Ld. Sr. Civil Judge, North-East, Karkardooma Courts, Delhi wherein the statement of the defendant herein was recorded. In the said statement, defendant gave his address as **F-73, Gali No. 3 (new private no. F-73A), West Karawal Nagar, Near Durga Mandir, Delhi-110094.** This is the same address where defendant was attempted to be served in the suit in question and which was reported to have been purportedly sold by defendant to one Savita. Counsel drew my attention to the report on process in the suit in question dated 05.06.2022 as well as dated 01.03.2023 in this regard. Counsel argued that if the above house was sold by

defendant in 2020 (as per the reports on the process noted above), why did defendant give the same address before the Court in CS No. 90/2020.

9. Again, Counsel drew the attention of the Court to the written statement of defendant filed in CS No. 90/2020 and the accompanying affidavit (which is dated 02.09.2020) where the address of defendant is shown as **F-73, Gali No. 3, West Karawal Nagar, Near Durga Mandir, Delhi-110094.**
10. Counsel argued that as per the said affidavit, defendant was living at the above address in September 2020 and thus, the claim of defendant before this Court that he was occupying a rental accommodation **from 2020 to 2023 is a patently false claim.**
11. In order to appreciate the above arguments and only to satisfy judicial conscience, the original case record of CS No. 90/2020 was called from the concerned Court for perusal.
12. Counsel for defendant, on instructions, does not dispute the fact that the said suit was actually filed by plaintiff Pinki *inter alia* against defendant herein. Counsel also does not dispute that a written statement alongwith an affidavit dated 02.09.2020 was eventually filed by the defendant in the said case (with the date of filing being 23.10.2020). The address in the said affidavit accompanying the written statement of defendant is admittedly shown as **F-73, Gali No. 3, West Karawal Nagar, Near Durga Mandir, Delhi-110094.**
13. Thus, as on 02.09.2020/23.10.2020, defendant was resident of the above address.
14. A perusal of the record of CS No. 90/2020 would show that defendant never moved any application in the said case intimating

the Court concerned qua any change in his address. This fact was also conceded by Counsel for defendant during arguments.

15. Even when the said suit was compromised by defendant on 15.09.2025, he gave his address as F-73, Gali No. 3 (new private no. F-73A), West Karawal Nagar, Near Durga Mandir, Delhi-110094.

16. This essentially means that from 2020 to 2025, defendant was residing at the above address and his claim made in this application that from 2020 till 2023, he was residing at a separate address at Noida is a false plea. It is pertinent to note that save and except a bald assertion of defendant that he was residing at Noida address on rent, no documentary proof in this regard has been annexed by the defendant with the present application. If defendant was actually residing on rent, there must have been some documentary evidence in this regard. None has been filed with the application.

17. It appears that in the present suit, defendant apparently avoided service through ordinary means in as much as on 05.06.2022 as well as on 01.03.2023 [the dates when the process through ordinary means was attempted to be served on defendant at F-73, Gali No. 3 (new private no. F-73A), West Karawal Nagar, Near Durga Mandir, Delhi-110094]. On the said dates, the process came back to Court that the said house has been sold by defendant to one Savita about 2 years back. But, it is pertinent to note that it was during the same period (particularly on 17.02.2020) that defendant was served with summons of suit No. 90/2020 through his mother and soon thereafter, he entered appearance in the said suit through a common Counsel on 26.02.2020 and went on to continue contesting the said matter till 15.09.2025. As already

noted, defendant never informed any change in the above address in the said case.

18. It is noteworthy herein that CS No. 90/2020 was *inter alia* between the same parties as the suit in question. It appears highly unlikely that the process in one case would be duly served on defendant i.e. CS No. 90/2020 at the same address while the other would remain unexecuted at the same address.
19. Yet again, it is pertinent to note that defendant herein simply claims that he became aware of the judgment and decree on 03.01.2026. **But, surprisingly, he does not disclose how did he become aware of the impugned judgment. If the defendant was not residing at the address in the present suit, how did he learn of the impugned judgment, is a mystery.**
20. In my humble opinion, it appears that defendant was well aware about the pendency of the present litigation and he himself avoided execution of process through ordinary means. This led the Court to order service through publication. Eventually, defendant was served through publication and eventually, defendant suffered an ex-parte judgment.
21. Considering the above facts and circumstances of the present case, defendant has falsely claimed before this Court that he was never served with the process or that he was living on rent in Noida during the period of 2020 to 2023. Defendant was actually living at the same address where he was attempted to be served by ordinary means and he himself avoided service and suffered an ex-parte decree despite having notice of the same. In such circumstances, the application is misconceived.
22. It is dismissed. It be tagged with the main suit file i.e. CS No. 53/22 titled as 'Pinki Vs. Parvesh Kumar'. Copy of this order be

also placed on the main suit file. File be consigned to Record Room.

23. The original record of CS No. 90/20 titled as 'Pinki Vs. Parvesh Kumar & Anr. decided vide order dated 15.01.2025 by the Court of Ms. Prigya Gupta, Ld. SCJ (NE), KKD Courts, Delhi be sent back.

Aashish Gupta
DJ-01/NE/KKD/DELHI
23.05.2026