

**IN THE COURT OF SH. VIRENDER KUMAR BANSAL  
PRINCIPAL DISTRICT & SESSIONS JUDGE  
NORTH-WEST DISTRICT, ROHINI COURTS, DELHI**

CS DJ No. 840/22

Meena Jain & Ors. Vs. Dy. Director (DDA) & Ors.

CNR No. DLNW01-009307-2022

25.04.2025

Present: None for plaintiff.

Sh. Pulkit Goyal, Advocate, proxy for Sh. Jatin Aggarwal, Advocate for defendant No. 1/DDA.

Defendant No. 3 through Sh. Sunil Kumar, Advocate, who joined through VC.

1. Vide this order, I shall dispose off the application seeking review of the order dated 27.03.2025 allowing the application U/o IX Rule 7 CPC moved by defendant No. 1.

2. The brief facts giving rise to the present application are that plaintiff has filed a suit against Dy. Director, DDA and others seeking various reliefs. Summonses were sent to the defendants. On 01.05.2023, the trial court directed DDA to file Status Report regarding the ownership and conveyance deed of the property by the next date of hearing and the next date was given as 30.05.2023. On that day at 2:00 PM, the court again adjourned the matter considering the requests and cost of Rs. 10,000/- was imposed upon the DDA. 09.10.2023 was fixed for filing of WS. On that day, on request, the matter was taken up at 11:45 AM and the court observed that despite wait, none has appeared on behalf of DDA. WS has also not been filed. Hence, the defence of the DDA is struck off. However, as per the record on the same day,

the WS was filed by DDA, which was also ordered to be taken on record. Later on, the application U/o IX Rule 7 CPC was moved by defendant No. 1. Considering the arguments of the parties, the application was allowed vide order dated 27.03.2025. The present application has been moved seeking review of this order. Copy was supplied to the DDA and the other parties.

3. I have heard Ld counsels for the parties and perused the record.

4. Ld counsel for the applicant/plaintiff submitted that despite service till 09.10.2023, defendant No. 1 did not file the WS, resulting into striking off the defence of defendant No. 1. This order was passed on 09.10.2023, but the application U/o IX Rule 7 CPC was moved only on 22.07.2024 after 9 months of striking of the defence. On 22.07.2024, counsel for defendant No. 1 apprised the court that copy was not supplied to the plaintiff. It was only on 04.11.2024 that the copy was provided to the plaintiff. Thereafter, transfer petition was filed and the case was transferred. It is alleged that the court has decided the application without going into the merits of the same. Even the main counsel for the plaintiff was not present due to the listing of urgent matter before Hon'ble Punjab & Haryana High Court and only proxy counsel appeared. No opportunity to argue was provided to the plaintiff. Ld counsel submitted that there was delay in moving the application U/o IX Rule 7 CPC, but there was no application U/s 5 of the Limitation Act. The court has not considered this fact. The application should have been moved within 30 days from the date of order, i.e. from 09.10.2023, but the court has not considered this fact while deciding the application. That application itself is not maintainable being

barred by limitation. This valuable point escaped consideration of the court and hence, warranting review of the order. It is prayed that the order dated 27.03.2025 be reviewed and be set aside.

**5.** Ld counsel appearing for the DDA submitted that on 09.10.2023, they could not appear before the court at the relevant time, but WS was filed on that day itself, therefore, they have complied with the directions of the court. They were given the next date of hearing as 10.01.2025. While taking the WS on record, the court has mentioned that put up with file on 10.01.2025, the date fixed. It is submitted that when the court directed them to move appropriate application for recalling of the order, they moved the application. Even otherwise their WS has already been taken on record. Ld counsel submitted that there is no relief claimed against DDA in the plaint. No prejudice is caused to the plaintiff by allowing the defendant/DDA to continue to defend the petition as the dispute is not between the DDA and the plaintiff, but between the plaintiff and defendant No. 4 and 5. Ld counsel submitted that the DDA is only to assist both the parties with respect to the title documents. It is prayed that keeping in view all these facts and the fact that on the same day, WS has already been filed, the court has rightly allowed the application and prayed that there is no merit in the application, the same be dismissed.

**6.** After hearing the arguments and going through the record, I found that in this case, 09.10.2023 was the date fixed for filing of WS and the court at 11:45 AM as none appeared on behalf of DDA and the court struck off the defence of DDA. Record also shows that on the same day, i.e. 09.10.2023. DDA

filed the WS, as reflected from the record. Practically, now the defence of DDA is already on record and is filed only on 09.10.2023, the date given by the court. An application U/o IX Rule 7 CPC was moved that the order of striking off the defence of DDA be set aside. The contention that the main counsel was not available and hence could not argue is of no relevance as the record shows that most of the time, it was the proxy counsel who was appearing on behalf of plaintiff and the main counsel was not appearing except on few dates. The proxy counsel argued the matter. She should have taken that objection while arguing the matter that she is not competent to argue the matter. After argument when the decision is not going in their favour, they cannot be permitted to say that the main counsel was not available and hence, the matter should have been adjourned.

7. So far as the other facts are concerned, those have been considered, as is reflected in the order itself. There is no error apparent on the face of the record. The applicant/plaintiff is also not able to bring anything new on record, which was earlier not in the knowledge of the applicant or the court or was not considered.

8. In view of all these facts, in my opinion, there is no merit in the review application, the same is dismissed.

9. Now to come up for admission/denial of documents and framing of issues on **01.05.2025**.

**(Virender Kumar Bansal)**  
Principal District & Sessions Judge (NW)  
Rohini Courts, Delhi