

01.06.2026

Present: Sh. Sarthak Sahni, Ld. counsel for applicant via video conferencing.

Non-applicant Kunal Sharma in person with Ld. counsel Sh. Gaurav Kumar.

On behalf of applicant Manoj Jain, an application u/s 151 CPC seeking early hearing of the matter has been moved. Notice of same has been accepted by the non-applicant. However, reply to the same has not been filed on behalf of the non-applicant.

Submissions heard. In view of the submissions made, the application seeking early hearing of the matter is allowed and the matter is taken up for hearing today itself.

Along with the aforesaid application seeking early hearing, another application u/s 151 CPC has been moved on behalf of the applicant Manoj Jain seeking stay of the operation of the decree dated 01.12.2022, before the Executing Court at Saket District Courts, Delhi. Reply to the said application has been filed on behalf of the non-applicant Kunal Sharma.

The brief facts giving rise to the filing of the said application are that the non-applicant Kunal Sharma filed a suit for recovery of Rs. 8,00,000/- against the applicant Manoj Jain on 07.01.2019. In the said suit, the applicant Manoj Jain was proceeded ex-parte, and the suit was decreed in favour of plaintiff / non-applicant Kunal Sharma vide judgment and decree

dated 01.12.2022, by Ld. Predecessor of this court and the defendant (applicant Manoj Jain) was directed to pay a sum of Rs. 8,00,000/- along with pendente-lite and future interest @ 12% per annum from the date of filing of the suit till its realization.

The present application under Order 9 Rule 13 CPC read with Section 151 CPC, which has been registered as Misc. DJ-1203/2025, **has been filed by the applicant Manoj Jain on 08.09.2025**, with the prayer to set-aside the ex-parte decree dated 01.12.2022 passed by Ld. Predecessor of the court. Along with the present application under Order 9 Rule 13 CPC, another application under Section 5 of the Limitation Act has been moved seeking condonation of delay in filing of the aforesaid application under Order 9 Rule 13 CPC. Reply to the application under Order 9 Rule 13 CPC has already been filed by non-applicant. Both the said applications are pending disposal and are listed for arguments on 09.07.2026 before this court.

In the application in hand, vide which the applicant has prayed for stay of the operation of the ex-parte decree dated 01.12.2022, it is submitted that execution petition is pending before the executing court for 08.05.2026 and if the proceedings are not stayed before the concerned court, serious prejudice is likely to be caused to the applicant as the court concern may issue warrants of attachment against the movable and immovable properties of applicant (JD before the executing court). It is further submitted that if coercive steps are taken in the execution proceedings prior to the adjudication of the application under Order 9 Rule 13 CPC, applicant Manoj Jain would suffer

irreparable loss and injury.

In the reply to the present application seeking stay of the ex-parte decree, it is submitted by the non-applicant that the submissions made by the applicant in the application u/o 9 Rule 13 CPC as well as in the present application are false and are not in accordance with the record. It is further submitted that the applicant intentionally stopped appearing before the court during trial of the main suit, due to which he was proceeded ex-parte. Even before the executing court, the applicant Manoj Jain proceeded ex-parte on 22.07.2024. It is further submitted that there is a delay of about three years in filing of the application u/o 9 Rule 13 CPC. It is submitted that the applicant is playing dilatory tactics to prolong the execution proceedings.

I have gone through the entire record and have heard the submissions advanced by counsel for both the parties.

In view of the submissions made and the factual matrix that the application under Section 5 of the Limitation Act as well as the application under Order 9 Rule 13 CPC are pending disposal and are listed for arguments on 09.07.2026, the proceedings before the Executing Court are stayed till the pendency of the said applications, subject to the applicant depositing a demand draft of 20% of the decretal amount (decretal amount of Rs. 8,00,000/- + interest @ 12% from the date of filing of main suit i.e. 07.01.2019 till date 31.05.2026) in the name of the court, with the executing court within seven days from today, under intimation to this court.

Accordingly, the application moved on behalf of the applicant seeking stay of the operation of the ex-parte decree

dated 01.12.2022 stands disposed off.

Now to come up for arguments the application under Section 5 of the Limitation Act as well as the application under Order 9 Rule 13 CPC for arguments on 09.07.2026.

(Nisha Sahay Saxena)  
Principal District & Sessions Judge (NW)  
Rohini Courts, Delhi (k)