

15.05.2025

Present : Sh. Mohd. Ikram, Ld. Counsel for the plaintiff through V.C.
Sh. Prashant Kumar, Ld. Counsel for the defendant through V.C.
Sh. Parvesh, Ld. Proxy counsel for the plaintiff with plaintiff.

1. Matter is listed for exparte PE.
2. However, the defendant has filed an application u/s 151 CPC for recall of order dated 24.02.2025 vide which the defence of the defendant was struck off and he was proceeded against exparte.
3. Notice of this application was issued to the plaintiff.
4. Ld. Counsel for the plaintiff submits that he does not wish to file any reply and is ready for arguments.
5. Arguments heard.
6. It is submitted by Ld. Counsel for the defendant that vide the impugned order, the defence of the defendant was struck off and he was proceeded against exparte. The previous counsel of the defendant did not inform him about the proceedings of the case and also did not prepare the WS. The defendant had engaged a counsel and was hopeful that the Ld. Counsel shall do the needful. Hence, the defendant did not appear in the court. It is submitted that the non appearance of the defendant was purely unintentional. Hence, the application may be allowed.

7. Same is opposed on behalf of the plaintiff. It is submitted that the present application is without any merit. Sufficient opportunity was given to the defendant to file his WS. The defendant was served in Dec, 2023 but still the WS was not filed. Hence, there is no ground for allowing of the present application. Hence, it is submitted that the application has no merit and the same may be dismissed.

8. Record perused.

9. The only ground taken is that the previous counsel did not inform the defendant about the date fixed. However, there is nothing on record that the defendant took any action against his previous counsel. These days, it has become a habit of the litigants to blame their previous counsels for negligence and misconduct. In a latest judgment titled as **RAJNEESH KUMAR & ANR. Vs. VED PRAKASH bearing S.L.P.(CIVIL)NOS.935-936 OF 2021 decided by the Hon'ble Supreme Court on 21.11.2024**, this practice has been criticized by the Hon'ble Supreme Court.

10. However, considering the facts and circumstances, where the plaintiff can be compensated with cost for the delay caused, the application is allowed, subject to cost of Rs. 7500/- to be paid by the defendant to the plaintiff by the NDOH.

11. **Subject to payment of the cost, the WS shall be taken on record.**

12. WS be filed within 02 weeks. Advance copy of the same be supplied to the opposite party atleast 15 days prior to the next date of hearing.

13. Put up for filing of replication, if any, admission/ denial and framing of issues on **14.07.2025**.

14. Both the parties are directed to file their affidavits in admission/ denial of documents.

(RUCHIKA SINGLA)
DJ-03 (N/W)
Rohini Courts :Delhi/15.05.2025