

**IN THE COURT OF SHRI ARVIND BANSAL
DISTRICT JUDGE-05 (WEST DISTRICT)
TIS HAZARI COURTS, DELHI**

**RCA DJ 50/2026
CNR No. DLWT01-002969-2026**

In the matter of:

- 1. M/s Tegh Enterprises**
Shop No. 12, ID Block
Peer Motinath Mandir Building
NIT Faridabad, Haryana

- 2. Sh. Ajit Khosa, Partner**
Shop No. 12, ID Block
Peer Motinath Mandir Building
NIT Faridabad, Haryana

..... Appellants

Versus

M/s Jupiter Illumination Pvt. Ltd.
487/61, 1st Floor, National Market,
Peeragarhi, New Delhi-110087

..... Defendant

Date of institution of appeal	:	14.03.2026
Date when order reserved	:	06.07.2026
Date of pronouncement of Judgment	:	06.07.2026

J U D G M E N T

1. Vide this judgment, the Court shall decide an appeal filed u/s 96 CPC read with Order XLI CPC seeking setting aside of an order dated 11.02.2026 passed by Ld.Trial Court in Case Misc. No. 132/2025 in CS SCJ No.1668/2017 titled 'M/s Jupiter Illumination Pvt. Ltd. Vs. M/s Tegh Enterprises & Anr. ' whereby an application of the appellant under Order IX Rule 13 CPC seeking setting aside of *ex-parte* judgment dated 18.01.2020 came to be dismissed.

2. The brief facts of the case as recorded in the *ex-parte* judgment dated 18.01.2020 are as follows: The appellant/defendant No.1 is a partnership firm carrying its business under the name & style of M/s Tegh Enterprises and deals in the business of LED lights products. It is stated that defendant no. 2, one of the partners of the firm, was dealing with plaintiff company and used to place purchase orders with plaintiff company for the purchase of LED light products. It was agreed between plaintiff and defendant that the products be sold on credit basis with a clear outstanding and assurance that defendant would clear the outstanding amount as and when accrued on account of purchase of goods, within a reasonable duration and defendant shall abide by the terms and conditions of sales. During the course of business, the account of defendant is being maintained by plaintiff company. As per ledger account, the defendant firm is liable to make the payment for a sum of Rs. 1,76,019/- and the last payment was made on 18.03.2015. It is stated that time and again

plaintiff made request to defendants to make payment but the defendants No. 2 always made one or the other excuse and a legal notice dated 02.02.2016 was served to defendants which was duly replied on behalf of defendants on 18.02.2016 and thereafter, reply dated 06.04.2016 was sent by plaintiff, however no payment was made by defendants and hence, a suit for recovery of Rs.1,70,019/- with interest was filed.

3. It is recorded in the judgment that appellants/defendants were duly served by way of publication on 02.08.2019, however, neither the defendants appeared nor did they file WS and thus, vide order dated 04.09.2019, they were proceeded *ex-parte*.

Respondent/plaintiff adduced *ex-parte* plaintiff evidence and on completion of trial, Ld. Trial Court decreed the suit in favour of plaintiff and against appellants/defendants thereby directing payment of an amount of Rs.1,70,019/- with interest @ 10% per annum on the said amount from the date of filing of the suit till realisation. No orders as to cost was awarded in favour of the plaintiff.

4. Appellants / defendants approached Ld. Trial court with an application under Order IX Rule 13 CPC with an application under Section 5 of Limitation Act read with Section 151 CPC seeking setting aside of the *ex-parte* judgment dated 18.01.2020. Ld. Trial Court dismissed the said application vide impugned order dated 11.02.2026 and hence, the present appeal.

5. The appellants/defendants have challenged the impugned order dated 11.02.2026 on the following grounds:

(a) that the appellants/defendants did not receive summons/notice of the original Civil Suit at any point of time;

(b) that the Court process remained unexecuted with report of 'no such person' on the Regd. Post and the report of 'no such firm at the address' on the ordinary process. Further, it is pleaded that the affixation of the process was also not undertaken as reflected in order dated 26.03.2019;

(c) that the process was not published in the local newspaper having circulation in Faridabad and as such, the publication undertaken by plaintiff/respondent herein under Order V Rule 20 CPC is not proper;

(d) that the Ld. Trial Court failed to consider that the publication had been effected in Dainik Jagran, Delhi edition, while the appellants/defendants are having their address at Faridabad; and

(e) that the Ld. Trial Court failed to consider that the delay of five years in approaching the Court by moving application under Order IX

Rule 13 CPC was due to lack of knowledge of the proceedings.

6. During arguments, Ld. Counsel for appellants/defendants reiterated the aforesaid grounds and pleaded that an opportunity to contest the suit on merits should have been granted to appellants/defendants. It is the argument that appellants/defendants had a good defence and therefore, denial of opportunity to contest the suit on merits resulted in miscarriage of justice. It is pleaded that there was no reason for Ld. Trial Court either to proceed *ex-parte* against appellants/defendants or to decree the suit against them. It is stated that the appellants came to know about the *ex-parte* decree only on 04.09.2025 when the bailiff visited their premises with the process of execution proceedings. On the strength of aforesaid arguments and grounds, Ld. Counsel for appellants/defendants sought setting aside of impugned order dated 11.02.2026 and consequently, the *ex-parte* judgment dated 18.01.2020.

7. Appeal opposed by Ld. Counsel for respondent/plaintiff arguing that sufficient opportunities were granted by Ld. Trial Court to the appellants/defendants to appear in the original civil suit, however, they failed to avail any such opportunity. It is submitted that the publication of the summons was made in the Faridabad edition of Hindi Daily Dainik Jagran, in due compliance of the order of Ld. Trial Court and therefore, there is no reason to call such a publication improper. Ld. Counsel

referred to the original newspaper attached to the record of Ld. Trial Court. It is stated that the impugned order dated 11.02.2026 has dealt with all the arguments of appellants/defendants and no ground to allow the present appeal is made out.

8. Submissions heard. Record of appeal including the Trial Court record of the original civil suit perused.

9. A bare perusal of the record shows that the process issued to appellants/defendants through registered A.D or Speed Post returned unserved with remarks '*addressee not available*' or with remarks '*no such person*' or 'address locked. In-fact ordinary process was received back unserved with remarks '*employee informed that addressee is out/addressee not found despite repeated visits*'. The appellants/defendants remained unserved despite repeated issuance of process due to aforesaid reports.

Ld.Trial Court vide order dated 23.04.2019 ordered service of defendants through publication. The said order was modified vide order dated 09.07.2019 whereby service was ordered to be effected by way of newspaper Dainik Jagran, Faridabad edition. Finally on publication of the summons in terms of order dated 09.07.2019, the defendants were proceeded *ex-parte* by Ld. Trial Court vide order dated 04.09.2019. After completion of evidence, the suit came to be decreed in favour of plaintiff and against the defendants vide *ex-parte* judgment dated 18.01.2020.

10. The argument of Ld. Counsel for appellants that the summons/ notice of the original civil suit was never served upon the appellants, cannot be accepted. It is noted that the appellants have furnished the same address in the present appeal, as furnished by plaintiff in the original civil suit. The appellants have admitted service of the process of execution petition upon them on 04.09.2025 at the same address. No change in the given address of the appellants has been asserted or pleaded.

From the perusal of various reports on summons to the appellants/defendants in the original civil suit, the order dated 03.04.2025 of Ld. Civil Judge (Sr. Division), Faridabad wherein it is recorded that the notice to the JDs has been received back with the report of '*refusal*', the fact that appellants have admitted service of execution petition at the same address on 04.09.2025 as also the fact that appellants have furnished the same address in the present appeal, this Court is of the opinion that the appellants / defendants were deliberately avoiding the process of the Court throughout this period.

11. The argument of Ld. Counsel for appellants/defendants that the publication was effected in Dainik Jagran, Delhi edition instead of Dainik Jagran, Faridabad edition also cannot be accepted, the same being contrary to available record. This Court has carefully perused the original newspaper dated 02.08.2019 attached to the record of Ld. Trial Court. The said newspaper is Faridabad edition of Hindi Daily Dainik Jagran. There is no reason to accept the argument of Ld. Counsel for

appellants/defendants, it being contrary to the original newspaper enclosed with the available record. Consequently, the argument of Ld. Counsel that Ld Trial Court erroneously proceeded *ex-parte* against the appellants/defendants, falls to ground. In the opinion of this Court, Ld. Trial Court rightly got the service affected upon the defendants through publication and consequently, on their non appearance, rightly proceeded *ex-parte* against them.

12. In the opinion of this Court, once the appellants/defendants were duly served by way of publication in the newspaper having circulation in the locality where they are residing or working for gain, there was no reason with them to approach the Ld. Trial Court with an application under Order IX Rule 13 CPC after a delay of about five years.

13. It is also the submission of Ld. Counsel for appellants/defendants that they came to know about the ex-parte judgment dated 18.01.2020, only on service of the notice of execution petition by Court Bailiff on 04.09.2025, and thereupon they approached the Ld. Trial Court in Delhi immediately. A bare perusal of the orders of Ld. Civil Judge (Sr. Division), Faridabad particularly order dated 03.04.2025 would nullify the aforesaid submission of the Ld. counsel. It is categorically recorded in the said order that the notice of execution petition sent to JDs has been received back with the report of refusal. Ld. Trail Court at Faridabad accordingly proceeded *ex-parte* against the JDs/appellants herein. In-fact, the Ld. Civil Judge (Sr. Division),

Faridabad has recorded attendance of Ld. Counsel for JDs in the execution petition on 06.09.2025 with an observation that there are chances of scuffle at the address of JDs and therefore, police help be provided for execution for warrants of attachment. This Court has been informed by Ld. Counsel for respondent/plaintiff that the application seeking setting aside of *ex-parte* order dated 03.04.2025 moved by JD/ appellants herein was also dismissed by executing Court at Faridabad. The factum of such dismissal of the application is being admitted by Ld. Counsel for appellants/defendants.

In the opinion of this Court, the appellants/defendants had sufficient knowledge not only of the present proceedings but also of the execution proceedings before the concerned Court at Faridabad and they deliberately avoided appearance before any of the Courts.

14. Having considered the submissions of the parties, the grounds of appeal, the Trial Court record, the order sheets of the original civil suit, the observations of Ld. Trial Court in its order dated 11.02.2026 as also order sheets of Ld. Civil Judge (Sr. Division), Faridabad, this Court is of the opinion that no ground to allow the appeal is made out.

15. In the opinion of this Court, none of the grounds raised by appellants/defendants in the present appeal makes out a reason to set aside the impugned order dated 11.02.2026 and consequently, judgment dated 18.01.2020 which has been passed

after due consideration of the facts, circumstances and applicable law. The present appeal being devoid of merits is, accordingly, **‘dismissed’**.

File be consigned to Record Room after due compliance.

TCR be sent back with a copy of this order.

Dictated and announced in the open
Court on 06.07.2026.

(ARVIND BANSAL)
District Judge-05 (West District)
Tis Hazari Courts, Delhi/06.07.2026