

**IN THE COURT OF SH. PARMOD KUMAR CIVIL JUDGE (JR. DIVN.)
FARIDABAD.**

Present: Sh. Vikas Verma, Advocate for the applicant/defendant
No. 2 (exparte)
Sh. Vikas Verma, Advocate for the respondent/plaintiff
Sh. Rohit Chaprana, Advocate for the defendant No. 1

**APPLICATION FOR SETTING ASIDE THE EX-PARTE
ORDER DATED 11.12.2025**

ORDER:

This order of mine, shall dispose off an application filed by applicant/defendant No. 2 for setting aside the exparte order dated 11.12.2025. It is submitted that the applicant/defendant No. 2 was appeared personally along with her counsel before the Court and filed the written statement and reply to application under Order 39 Rules 1 & 2 CPC on 30.10.2025. It is further submitted that on 30.10.2025, the counsel for the applicant/defendant No. 2 has wrongly note down the next date of hearing as 12.12.2025 whereas the correct date of hearing was 11.12.2025 and due to his mistake, none had appeared on behalf of the applicant/defendant No. 2 before this Court.

It has further averred that non-appearance of applicant/defendant No. 2 was not intentional but due to said reason. Hence the application praying that ex-parte proceedings be set-aside as there was no fault of the applicant/defendant.

2. In reply, plaintiff/ respondent have submitted that the present application is not maintainable in the present form. It is further submitted that the applicant/defendant No. 2 has not placed any cogent evidence i.e. details of case diary etc. along with the present application. It is further submitted that the applicant/respondent No. 2 was well aware about the

proceedings of the present case but knowingly she has not appeared before this Court on 11.12.2025. While denying rest of the averments, prayer for dismissal of the present application has been made.

3. Learned counsel for both the parties have argued on similar lines of the pleadings of the parties.

4. I have heard learned counsel for the applicant and learned counsel for the respondent and have perused the case file carefully and minutely.

5. After having heard the contentions raised by learned counsel for the parties, this court has observed that the plaintiff has filed the present suit for specific performance of agreement to sell dated 17.03.2023.

By the present application, the applicant/defendant No.2 want to get setting aside the order dated 11.12.2025 which was passed against the applicant/defendant No. 2 on the ground of her non-appearance before the Court. The applicant submitted that the absence of applicant/defendant No.2 was not intentional but due to reason mentioned in the application.

6. Since the applicant/ defendant want to contest the present suit and legal justice system in India is adversarial in nature, therefore, opportunity to defend the case must be given to defendant. For effective adjudication of the case, joining of applicant/ defendant in the present case is necessary. In view of settled proposition of law that all the parties will be heard on merits and as far as possible the *lis* be decided after giving opportunity to each party to contest the case on merits. Therefore, this court deems it fit to allow the present application, but to balance the delay so

caused in the suit of plaintiff. This court further deems it fit to allow the present application. The plaintiff may be compensated by imposing cost on account of delay on the part of applicant/defendant. Moreso, the ground mentioned in the present application seems to be convincing accordingly, in the interest of justice the application for setting aside exparte order dated 11.12.2025 is hereby allowed, subject to cost of ₹2000/- to be paid by applicant to plaintiff. Therefore, exparte order dated 11.12.2025 passed against applicant/defendant is hereby set aside. However, nothing aforesaid shall be deemed to construe any opinion upon the merits of the main case.

Now the case stands 01.04.2026 for arguments on injunction application.

Date of Order
28.01.2026

Parmod Kumar
Civil Judge (Junior Division)
Faridabad
(UID HR0478)

Govind Singh(Steno-II)