

Misc Dj No.828/22

Vipin Kumar Garg Vs. Munni Devi

13.04.2023

Present : Applicant/plaintiff with Ld. Counsel Ms. Roopa Nagpal.

Non applicant/defendant with Ld. Counsel Ms. Vedika Sharma.

This is an application under Order 9 r/w Rules 3, 4, 8 & 9 and Section 151 CPC moved on behalf of plaintiff/applicant herein seeking restoration of the recovery suit bearing CS No.837/18, titled as 'Vipin Kumar Garg Vs. Munni Devi'.

Vide order dated 20.09.2022, my learned predecessor had dismissed the aforesaid suit, as neither plaintiff nor his counsel had appeared on the said date. The case was lingering on at the stage of PE since 03.03.2021 and last opportunity was granted to the plaintiff to lead PE.

The applicant/plaintiff has taken excuse for his non appearance on 20.09.2022 that his previous counsel and his clerk had not informed him about the listing of his case on the said date. Thereafter, on 21.11.2022 the applicant engaged a new counsel and filed the present application on 12.12.2022.

Alongwith the restoration application, an application for condoning the delay of 54 days in filing the present application has also been filed.

Arguments heard and record perused.

Considering the submissions made in the application and in the interest of justice, the restoration application is allowed subject to cost of Rs.5,000/- to be paid to the non applicant/defendant on next date of hearing. The recovery suit stands restored to its original number.

Put up for PE on **25.05.2023**. Only one effective opportunity shall be granted to the plaintiff to conclude entire PE, failing which the case shall be dismissed.

The restoration application stands disposed of as allowed. It be tagged with the main suit.

(SHAIL JAIN)
Principal District & Sessions Judge
Shahdara, KKD Delhi/13.04.2023