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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 577/2025 & CM APPL. 18165/2025**
MAHABIR SINGH (DECEASED) THROUGH HIS LRS
.....Petitioner
Through: Ms. Saahila Lamba, Advocate.

versus
NARENDER RANARespondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

% **28.03.2025**

1. Petitioner herein is a plaintiff and filed a suit seeking recovery of arrears of Rs. 10,00,000/- with interest. Since the defendant did not appear despite the service of summons, he was proceeded against *ex-parte* and *ex-parte* decree was passed by the learned Trial Court on 09.08.2019.
2. An Execution Petition was also, accordingly, filed.
3. If the case of the defendant is to be believed, he learnt about the decree only when he received some summons in relation to the Execution Petition.
4. He, thereafter, moved an application under Order IX Rule 13 CPC seeking to set aside the above said *ex-parte* judgment.
5. Interestingly, he did not pursue the above said application and did not appear before the Court in support of his such application. So much so, the learned Trial Court even closed his right to advance any argument with respect to the abovesaid application.
6. Ideally, in such a situation, the application should have been dismissed for non-prosecution but fact remains that the learned Trial Court considered the above said application and heard arguments from the side of plaintiff.



Learned Trial Court, while observing that the signatures appearing in summons were in English whereas the signatures made by him in service of Notice in relation to Execution Petition were in Hindi, allowed the application moved under Order IX Rule 13 CPC.

7. The copy of the application which the defendant had moved under Order IX Rule 13 CPC has also been annexed with the present petition and in such application, there is not even a whisper to the effect that some summons were not bearing his signatures.

8. A person can sign both in English and in Hindi and merely because at one place he had signed in Hindi would not mean that the previous signatures have to be disbelieved, outrightly, more so, when the concerned applicant has not even bothered to appear before the learned Trial Court and has not even raised any argument to that effect.

9. None appears on behalf of respondent/defendant despite advance notice.

10. Issue notice through all permissible modes as also through counsel, returnable on 21.08.2025.

11. However, since the learned Trial Court *vide* impugned order dated 24.01.2025 has revived the suit, the proceeding with respect to the above said suit shall remain stayed till the next date of hearing.

12. Be show in supplementary list.

MANOJ JAIN, J

MARCH 28, 2025/sw/SS