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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **C.R.P. 173/2025, CM APPL. 35064/2025**

CAPTAIN RAJ KUMAR RANA

.....Petitioner

Through: Mr. Deepak Kohli, Mr. Mohd. Shariq,
Mr. Mohd. Sakir, Advs.

versus

ALLAINCE AIR AVIATION LIMITED

.....Respondent

Through:

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

% **29.05.2025**

CM APPL. 35063/2025 [*Condonation of delay in filing the Petition*]

1. This is an Application filed by the Petitioner seeking condonation of delay of 31 days in filing the Petition.
2. For the reasons as stated in the Application, the delay is condoned.
3. The Application stands disposed of.

CM APPL. 35065/2025 [*Exemption from filing certified/typed copies of annexures*]

4. Allowed, subject to the Petitioner filing certified/typed copies of annexures within a period of three weeks.
5. The Application stands disposed of.

C.R.P. 173/2025, CM APPL. 35064/2025 [*Stay*]

6. The present Petition has been filed by the Petitioner under Section 115 of the Code of Civil Procedure, 1908 [hereinafter referred to as 'CPC']



seeking to challenge a judgment dated 22.01.2025 passed by Ld. DJ-01, Southwest District, Dwarka Courts, Delhi [hereinafter referred to as 'Impugned Judgment']. By the Impugned Judgment, an Application under Order XXXVII Rule 4 of the CPC filed by the Petitioner (Defendant before the learned Trial Court), for setting aside a judgment and decree dated 02.12.2021, has been dismissed.

7. Learned Counsel for the Petitioner/Defendant, at the outset, submits that the Petitioner/Defendant was wrongly guided by the erstwhile Counsel, however, Petitioner/Defendant had filed a memo of appearance. Learned Counsel submits that the Petitioner/Defendant filed an Application under Section 8 of the Arbitration and Conciliation Act, 1966 as well as an Application under Order VII Rule 11 of the CPC without filing the requisite application and affidavit for leave to defend/contest.

7.1 Learned Counsel for the Petitioner/Defendant submits that after filing the Application under Section 8 of the Arbitration and Conciliation Act, 1966, the Counsel stopped appearing before the learned Trial Court. Thus, the judgment and decree dated 02.12.2021 was passed ex-parte.

7.2 Learned Counsel for the Petitioner/Defendant further submits that the matter was pending before the learned Trial Court for four years and the pleadings were also amended. Learned Counsel submits that the Petitioner/Defendant may be granted an opportunity to contest the matter on merits.

7.3 Learned Counsel for the Petitioner/Defendant, on instructions, submits that the Petitioner/Defendant is willing to deposit the entire principal decretal amount i.e. Rs.18 lacs to show his *bona fides* in the Court.

8. Issue Notice.



8.1 On steps being taken, let Notice be issued to the Respondent *via* all modes. An Affidavit of service be filed within a period of two weeks.

9. Subject to the deposit of the entire principal decretal amount i.e. Rs.18 lacs within a period of six weeks, the execution of the Judgment and Decree dated 02.12.2021 shall remain stayed till the next date of hearing.

10. It is made clear that in the event Rs.18 lacs is not deposited by the Petitioner/Defendant within the timeline fixed above, the interim protection granted by this Court shall automatically stand vacated.

12. The Registry is directed to place on record the digital copy of the Trial Court Record duly paginated and book-marked in accordance with the rules of the High Court.

13. List on 03.09.2025.

14. The parties shall act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

MAY 29, 2025/jn

[Click here to check corrigendum, if any](#)