



\$~112

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO 208/2025, CM APPL. 44959/2025 & CM APPL. 44960/2025**
RAJIV GAMBHIR

.....Appellant
Through: Mr. Kartik Bhardwaj with Ms. Kriti
Sharma, Advocates.

versus

GULJEET SINGH AND ORS

.....Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER
28.07.2025

%

1. The present appeal challenges order dated 17.05.2025 whereby the application moved by the appellant (defendant No. 2 before learned Trial Court) under Order IX Rule 13 CPC has been dismissed.
2. There was delay in moving the abovesaid application and even the delay has not been condoned.
3. The *ex-parte* decree is dated 03.11.2023 and the plaintiff, who is resident of ground floor of property No. 17/06, West Patel Nagar, New Delhi has filed the suit against the five defendants.
4. In such suit, defendant No.1 is resident of first floor who inducted defendant No. 2 as a tenant in the first floor.
5. During course of the arguments, it was apprised that first floor was divided in two portions and one portion was already with defendant No.1 and



the other portion was given to defendant No.2 as a tenant.

6. Defendant No.3 is the driver of the defendant No.2 and rest are the Civil Agencies and the Police Authorities.

7. Defendant No. 2 was duly served but fact remains that he stopped appearing in the abovesaid suit w.e.f. 10.02.2022. The *ex-parte* decree directs defendant Nos. 1 and 2 to pay damages in a sum of Rs. 10,00,000/- to the plaintiff within a period of thirty days and to rectify/repair the leakage on the first floor and there is also direction to defendant Nos. 1, 2 and 3 to remove the encroachment in the parking area.

8. During course of the arguments, learned counsel for the appellant (defendant No.2 before the learned Trial Court) submitted that defendant No.2 was, merely, occupying some portion of first floor as tenant, which he has already vacated.

9. He submits that it was only on the account of the negligent manner with which the case was being represented by his counsel that he had to suffer a decree and it was a fit case where the learned Trial Court should have allowed his application moved under Order IX Rule 13 CPC.

10. He submits that though the prime responsibility to pay damages, if any, was on defendant No.1 who was his landlord, however, without prejudice to his rights and contentions, he is ready to deposit a sum of Rs. 2,00,000/- with the Registry of this Court within two weeks from today in order to show his *bona fide*.

11. He, however, at the same time, submits that there should not have been any decree of damages against him, solely, for the reason that he was occupying the premises as a tenant and he had not done anything which might have invited any action against him.



12. The Execution Petition is stated to be fixed for further consideration on 01.08.2025.
13. Issue notice through all permissible modes as also through counsel, returnable on 16.09.2025.
14. In the meanwhile, if the appellant deposits a sum of Rs. 2,00,000/- with the Registry of this Court, no coercive action qua defendant No.2 i.e. appellant- Rajiv Gambhir be taken in the abovesaid Execution Petition.
15. Order *dasti* under the signatures of the Court Master.

MANOJ JAIN, J

JULY 28, 2025/sw/SS