



\$~59

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RFA 984/2025, CM APPL. 67021/2025, CM APPL. 67022/2025
CM APPL. 67023/2025, CM APPL. 67024/2025
M/S OJAS ARTS & ORS.Appellants

Through: Mr. Abhijat, Sr. Advocate with Mr.
Tarang Gupta, Ms. Shreya Sharma,
Mr. Satyam Gupta and Ms. Shejal
Agarwal, Advocates

versus

MR. ABHISHEK OBEROIRespondent

Through: Mr. Peeyoosh Kalra, Mr. Vansh
Gandotra and Mr. Madhuresh
Chaudhary, Advocates.

CORAM:
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
29.10.2025

%

CM APPL. 67023/2025 (exemption)

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

**RFA 984/2025, CM APPL. 67021/2025 (condonation of 620 days' delay
in filing the appeal), CM APPL. 67022/2025 (stay) & CM APPL.
67024/2025 (additional document)**

By way of the present regular first appeal filed under section 96
read with Order XLI Rule 1 of the Code of Civil Procedure 1908
(‘CPC’), the appellants impugn judgment and decree dated
17.11.2023 passed by the learned Additional District Judge, South



District, Saket Courts Complex, New Delhi in suit bearing CS No.630/2022.

2. Mr. Abhijat, learned senior counsel appearing for the appellants (defendants) submits, that the suit filed by the respondent (plaintiff) under Order XXXVII CPC has been decreed without the appellants ever having been served with summons of judgment in Form No.4A of Appendix-B of the CPC, as is mandatorily required under Order XXXVII Rule 3(4) of the CPC.
3. Learned senior counsel argues, that the appellants had duly entered appearance as required under Order XXXVII Rule 3 CPC within 10 days of receiving summons under Order XXXVII Rule 2 in Form No.4 in Appendix B; but thereafter the respondent failed to serve upon the appellants summons for judgment as required under Order XXXVII Rule 3(4) of the CPC.
4. Mr. Abhijat submits, that though a leave-to-defend application was filed on behalf of the appellants, the filing of that application was premature and of no relevance in the absence of service of summons for judgment upon the appellants, as per the mandate of the summary procedure prescribed in Order XXXVII CPC.
5. In these circumstances, learned senior counsel submits, that the fact that the learned trial court dismissed the leave-to-defend application in default of appearance on the part of the appellants, was also of no consequence, since after having entered appearance under Order XXXVII Rule 3(3) CPC, the appellants were under no obligation to continue to appear in the matter till they were served with summons for judgment.



6. In support of his submissions, learned senior counsel has placed reliance on a judgment of a Division Bench of this Court in ***Haryana Breweries Ltd. vs. The Aluminium Manufacturing Company Ltd. & Anr.***¹
7. On being queried as to the reason for the 620 days' delay in filing the present appeal, learned senior counsel submits, that the appellants had moved an application under Order XXXVII Rule 4 seeking the setting-aside of the decree; and for granting to them the right to defend the suit, which was filed on 06.01.2024 and was finally dismissed by the learned trial court only on 18.09.2025. Learned senior counsel explains, that if the time taken by the learned trial court to decide the application under Order XXXVII Rule 4 CPC is excluded, then there is no delay in filing the present appeal.
8. Issue notice.
9. Mr. Peeyoosh Kalra, learned counsel appears on behalf of the respondent on advance copy; accepts notice; and seeks time to file reply.
10. Let replies to CM APPL. No.67021/2025, CM APPL. No.67022/2025, and CM APPL. No.67024/2025 be filed within 06 weeks of service; rejoinders thereto, if any, be filed within 04 weeks thereafter; with copy to the opposing counsel.
11. No reply is required in the appeal.
12. Let trial court record be requisitioned in electronic form; and copy of TCR be supplied to counsel on request.

¹ 1980 SCC OnLine Del 119



13. Re-notify on 16th January 2026 before the learned Joint-Registrar for completion of pleadings in CM APPL. No.67021/2025, CM APPL. No.67022/2025, and CM APPL. No.67024/2025.
14. List before court thereafter.
15. On a *prima-facie* view of the matter, and in view of the submissions made, and the record presently before this court, the effect and operation of the impugned judgment and decree dated 17.11.2023 shall remain *stayed*, till the next date of hearing before this court, without requiring the appellants to make any deposit *at this stage*.
16. A copy of this order be given *dasti* under the signatures of the Court Master.

ANUP JAIRAM BHAMBHANI, J

OCTOBER 29, 2025

SS