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

% ***Date of Decision: 16th May, 2025***

+ **EX.F.A. 14/2025 & CM APPL. 30139-30140/2025**

RAJEEV SEHGAL

.....Appellant

Through: Mr. Amitabh Chaturvedi with
Mr. Vibha Sharma and Ms. Rimjhim
Suhani, Advocates.

versus

VED PRAKASH

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Appellant herein has suffered a decree.
2. The suit was summary in nature.
3. The defendant was duly served with summons and even appeared before the learned Court but fact remains that despite being served on 30.03.2024, he did not file any appearance. Therefore, the plaintiff was held entitled to a judgment and, resultantly, suit was decreed in favour of the plaintiff and against the defendant for a sum of Rs.9,50,000/- with interest @ 6% per annum.
4. The case of the appellant is that he was not advised and guided appropriately by his counsel, and he was never aware that there was any legal requirement of submitting appearance in writing within any prescribed period and, therefore, he, unfortunately, suffered a decree. It is submitted that for



such negligence on the part of the concerned counsel, the appellant has even filed a complaint with Bar Council of Delhi.

5. Admittedly, so far, the aforesaid judgment/decreed has not been challenged by the plaintiff. However, when Execution Petition was filed, Objection Petition under Section 47 CPC was filed by the same defendant i.e. Judgment Debtor Sh. Rajiv Sehgal and the learned Executing Court *vide* judgment dated 09.05.2025, has dismissed the Objection Petition, holding that there was no merit in the same.

6. Simultaneously, the learned Executing Court has also issued *warrants of attachment* against the defendant with respect to his one immovable property situated at third Floor at Village Nasirpur known as West Sagarpur, New Delhi.

7. Learned counsel for the appellant submits that the appellant stands penalized for no fault of his and he is rather a victim of circumstances. He also submits that based on the same cheque, the Decree Holder has already launched prosecution under Section 138 of Negotiable Instrument Act, 1881 against him, which is also pending adjudication. He submits that though the appellant had a very good case and a very good defence, particularly, keeping in mind the fact that the amount had already been returned by him, though the Decree should not have been passed but in view of the present unfortunate situation in which he finds himself in, he had no other remedy, except to have filed the abovesaid Objection Petition under Section 47 CPC.

8. However, after hearing arguments for some time, learned counsel for the appellant, on instructions, submits that the appellant is no longer interested in pursuing with the present petition and seeks to withdraw the same. He, however, submits that such decree may not be construed as an



admission on the part of the defendant, by the concerned Criminal Court, seized with complaint under Section 138 of Negotiable Instrument Act, 1881. He also submits that the appellant herein is ready to make payment of the decretal amount also and his such offer, which is without prejudice to his rights and contentions, should also not be taken as an admission on his part.

9. The appellant undertakes to clear the entire decretal amount within approximately 4-5 months from today and in order to demonstrate his *bonafide* in this regard, he seeks to deposit a sum of Rs.2,00,000/- with the learned Executing Court within ten days from today.

10. None appears on behalf of respondent/Decree Holder despite advance notice.

11. However, in view of the above, the present petition is disposed of as not pressed.

12. It is also clarified that since the version of the defendant was never before the learned Civil Court, the learned Criminal Court would decide the criminal complaint, without being influenced with the outcome of the abovesaid civil suit.

13. In view of the offer being made today, the direction of the learned Executing Court, whereby it has issued *warrants of attachment*, shall be kept in abeyance for a period of ten days.

14. Simultaneously, the appellant herein is granted ten days' time to appear before learned Executing Court and to deposit the abovesaid amount of Rs.2,00,000/-, as undertaken by him. This Court also expects that in terms of the statement which has been made today, the appellant, without prejudice to his rights and contentions, also clears the entire decretal amount within the abovesaid undertaken period of 4-5 months.



15. The petition stands disposed of accordingly.
16. Pending applications, if any, also stand disposed of.
17. Copy of the order be given *dasti* under the signatures of Court Master.

(MANOJ JAIN)
JUDGE

MAY 16, 2025
st/pb