



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

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Date of decision: July 22, 2025

+ **FAO (COMM) 165/2025, CM APPL. 37091/2025-STAY, CM APPL. 37092/2025-EXEM. FROM FILING ANNEXURES, CM APPL. 37093/2025-EXEM. CM APPL. 37094/2025-EXEM. FROM FILING COMPLETE TCR, CM APPL. 38389/2025-COND OF DELAY IN FILING THE APPEAL 16 DAYS.**

KALU RAM DHINGRA

.....Appellant

Through: Mr. Nitin Mittal, Advocate

Versus

SHREE JEE FINANCIAL CONSULTANT LLP

.....Respondent

**Through: Mr. P.S. Bindra, Sr. Advocate with
Mr. Tarranjit Singh Sawhney and Mr.
Udit Gupta, Advocates.**

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE SAURABH BANERJEE

SAURABH BANERJEE, J. (ORAL)

1. The appellant, by way of the present appeal, seeks setting aside/recalling of the order dated 06.02.2025 (*impugned order*) passed by the District Judge (Commercial Court) 02, North West District, Rohini Courts, Delhi (*learned Trial Court*), whereby the appellant's application under *Order IX rule 13* of the Code of Civil Procedure, 1908 (*CPC*) for recalling/setting aside the judgment and decree dated 04.09.2024, was dismissed.

2. The brief facts leading to filing of the present appeal are that the parties herein executed an Agreement to Sell dated 30.06.2021 for sale of property comprising of Shop No.GF-39, G.F. Pearl Omaxe Tower, Plot



No.B-1, Netaji Subhash Place, Pitampura Delhi-110 034, whereby out of total sale consideration of Rs.42,00,000/- (*Rupees Forty Two Lakhs Only*), even though a sum of Rs.40,00,000/- (*Rupees Forty Lakhs Only*) had been received by the appellant and the respondent was only to pay the balance amount of Rs.2,00,000/- (*Rupees Two Lakhs Only*) at the time of execution of the Sale Deed, since the appellant failed to come forward to execute the Sale Deed, the respondent instituted '*CS(Comm) No. 585/2023*' entitled '*Shree Jee Financial Consultants LLP v. Kalu Ram Dhingra*', being a suit for specific performance of the said Agreement to Sell dated 30.06.2021 before the learned Trial Court.

3. Before the learned Trial Court, *admittedly*, though the appellant was duly represented by his learned counsel on 21.10.2023 and 04.01.2024 upon being served with the summons, however, he failed to file his written statement. On 25.04.2024, since none appeared on behalf of the appellant, the learned Trial Court *vide* its order of even date closed the right of the appellant to file written statement and also proceeded *ex parte* against the appellant

4. Being aggrieved, the appellant filed an application under *Order IX rule 13* of the CPC, *inter-alia*, seeking recall of the *ex parte* order dated 25.04.2024 before the learned Trial Court, which was dismissed *vide* a detailed order dated 22.08.2024 imposing costs of Rs.20,000/- (*Rupees Twenty Thousand Only*) for negligence. Thereafter, since there was no appearance on behalf of the appellant when the proceedings were listed before the learned Trial Court for cross-examination of the witnesses of the respondent on 16.07.2024, the learned Trial Court, after closing the *ex parte* evidence then, proceeded to pronounce the judgment and decree in favour of



the respondent *vide* order 04.09.2024.

5. Moreover, the appellant was being represented by his erstwhile counsel, pertinently, in the midst of the *lis*, the appellant engaged the services of the present counsel, however, the exact time period *qua* engagement of the present counsel remains unclear.

6. Thereafter, the appellant again filed another application under *Order IX rule 13* of CPC on 15.10.2024 for recalling/ setting aside the judgment and decree dated 04.09.2024 on the ground that there was negligence on the part of the erstwhile counsel for the appellant. The learned Trial Court dismissed the said application *vide* the impugned order dated 06.02.2025, primarily observing the past conduct of the appellant, who, despite service, not only failed to file his written statement but also remained absent on subsequent dates, as also that wilfully refrained from cross-examining the respondent's witness and did not make any effort to advance arguments.

7. Hence, the present appeal.

8. As per learned counsel for the appellant, the impugned order failed to consider the averments made by the appellant in his application *qua* sufficient cause demonstrated insofar as the negligence of his erstwhile counsel; and that reliance on the past conduct of the erstwhile learned counsel for the appellant, while dealing with an application under *Order IX rule 13* of CPC, is no ground for rejecting the same. Reliance is placed on **A. Murugesan v. Jamuna Rani**¹ wherein it has been held that the only germane consideration while adjudicating an application under *Order IX rule 13* of CPC is whether a '*sufficient cause*' was shown for the absence/

¹ (2019) 20 SCC 803



inability to present the case.

9. *Per contra*, learned counsel for the respondent submits that the present appeal is vague, frivolous, and intended merely to prolong the proceedings as also considering that the appellant was afforded sufficient opportunity before the learned Trial Court but failed to avail the same and has now preferred this appeal without raising any grievance against the conduct of his erstwhile counsel before appropriate forum.

10. We have heard the learned counsel for the parties and also gone through the pleadings and documents on record.

11. Based on the arguments addressed by the learned counsel for the appellant and the pleadings along with the relevant documents filed in support thereof, the sole challenge to the impugned order is based on the learned counsel for the appellant putting his heart and soul in arguing/ blaming the erstwhile counsel for his negligence before the learned Trial Court which led to the passing of the judgment and decree dated 04.09.2024 and the subsequent impugned order thereafter, however, he has candidly admitted that despite the appellant nursing a grudge against the erstwhile counsel to that effect, the appellant has never taken any steps and/ or made any allegations against him before any Authority till date. All that the appellant did was, merely change the erstwhile counsel, and that too at a belated stage, after lapse of sufficient time.

12. The sole basis for challenging the impugned order is premised on blaming the erstwhile counsel by the appellant, which, being with no corroboration/ supporting documents/ acts in support it, is a mere bald statement. Thus, the appellant has failed to show any cause, much less, a '*sufficient cause*' to deal with the present appeal. A disgruntled client like



the appellant cannot be allowed to blame the lawyer(s) at the mere drop of a hat, and that too in thin air. In such a scenario, this Court ought to act in a judicious manner. In view of this Court, the above by itself being insufficient, the appellant has failed to show any cause for satisfying this Court that it “...*was prevented by any sufficient cause from appearing before the learned Trial Court when the suit was called for hearing...*”.

13. In ***G.P. Srivastava V/s RK Raizada & Ors.***², the Hon’ble Supreme Court has gone onto hold that the ‘*satisfaction*’ of the Court *qua* ‘*sufficient cause*’ is contingent upon the factual matrix and the overall circumstances involved in each and every case. Similarly, a co-ordinate Division Bench of this Court in ***Lemon Entertainment Ltd. v. Super Cassettes Industries Ltd.***³ while dealing with an application under *Order IX rule 13* of CPC has gone into the nuances of ‘*sufficient cause*’ and held that absence of a cogent and *bona fide* explanation constituting a ‘*sufficient cause*,’ as also where such an application is imbued with evasive, vague or palpably false assertions, such indulgence of setting aside the decree is wholly unwarranted. In effect, under such circumstances, the *ex parte* decree must not be disturbed as the law does not augment deceitful litigants, who abuse the procedure under the garb of misplaced equity.

14. The records also reveal that the appellant was accorded sufficient opportunities by the learned Trial Court at different stages, which he failed to avail. In fact, the learned Trial Court has correctly held that the appellant had failed to show any ‘*sufficient cause*’ for not filing the written statement in time and/ or non-appearance. The position is the same before us as well.

² 2000 (3) SCC 54

³ 2015 SCC OnLine Del 8903



15. Lastly, **A. Murugesan** (*Supra*) relied upon by the learned counsel for the appellant is not applicable to the facts involved herein as the same was dealing with a situation wherein ‘*sufficient cause*’ was primarily attributable to boycotting of Courts by the Advocates.

16. Considering the overall facts and circumstances of the case, we find no reason to interfere with the impugned order passed by the learned Trial Court as there is no ‘*sufficient cause*’ evinced by the appellant herein. Moreover, the impugned order is found to be a well-reasoned and speaking order.

17. Accordingly, finding no merit in the present appeal, the same is dismissed along with pending application(s), if any, with no order as to costs.

SAURABH BANERJEE, J.

V. KAMESWAR RAO, J.

JULY 22, 2025

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