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

% *Date of Decision: 16.10.2025*

\+ **CM(M) 2016/2025, CM APPL. 65427/2025 & 65426/2025**

UNION BANK OF INDIA .....Petitioner

Through: Mr. Rajiv Kumar, Advocate

versus

M/S SHABD ENTERPRISES AND ANR .....Respondents

Through: None

CORAM: JUSTICE GIRISH KATHPALIA

ORDER (ORAL)

1. The petitioner bank has assailed orders dated 04.07.2025 and 15.07.2025 of the learned trial court. Since summons of the subject suit were yet to be issued, there is no need to issue notice of this petition.

2. It appears that the loan recovery suit filed by the petitioner bank was initially adjourned *sine die* vide order dated 02.07.2024 at request of counsel for petitioner bank, because whereabouts of the defendants (*borrowers*) were not traceable.

2.1 Thereafter, vide order dated 13.02.2025, the suit was revived. On 01.03.2025, when the suit was taken up, no application for substituted service of summons on the defendants was filed by the petitioner bank. In this regard, learned counsel for petitioner bank submits that on 01.03.2025, the suit file did not reach the court. But there is nothing on record to show that on 01.03.2025 the file did not reach.

2.2 On the next date i.e., on 08.04.2025, when the suit was listed, none appeared for the petitioner bank and observing that no application for substituted service of summons on the defendants was filed, the learned trial court dismissed the suit in default. As regards default in appearance on 08.04.2025, learned counsel for petitioner submits that he appeared in two calls on that day, but in post lunch third call, suit was dismissed in default. On this aspect also, submission of learned counsel is contrary to record. The order dated 08.04.2025 clearly shows that none appeared on behalf of petitioner that day.

2.3 Thereafter, the petitioner bank filed an application on 21.05.2025 for recall of order dated 08.04.2025, but since none appeared for petitioner bank, the application was adjourned to 30.05.2025 and then on 04.07.2025, but on both dates, none appeared for petitioner bank, so on 04.07.2025 even the suit restoration application was dismissed in default.

2.4 The petitioner bank had earlier filed another application on 24.05.2025 for the same relief as sought in the earlier application for restoration of the suit. The said application was dismissed on 15.07.2025 by the trial court in view of the dismissal of the previous application.

2.5 Hence the present petition.

3. *Prima facie*, there is no infirmity in the impugned orders dated 04.07.2025 and 15.07.2025. There is not even a whisper as to what the concerned officer of the petitioner bank, dealing with the subject suit was doing all this while. There is no explanation as to why the concerned law officer or the concerned manager of the petitioner bank neither appeared on any of the dates nor kept a track of the proceedings.

4. But the larger issue here is the involvement of public money. If the present petition is not allowed, the ultimate sufferer would be the exchequer. That being so, in my view, notwithstanding the lethargic and negligent (*if not deliberate inaction to help the defendant*) conduct of the petitioner bank, the suit should be revived subject to cost to be deposited by the petitioner bank. The said cost should be initially deposited by the petitioner bank and then recovered from the salary of the officer/manager who was in-charge of the litigation pertaining to the subject suit, if found erring.

5. In view of above discussion, the petition is allowed and the subject suit is restored subject to the petitioner bank depositing cost of Rs.25,000/- with DHCLSC within two weeks. It is also directed that the petitioner bank shall carryout a detailed inquiry to fix responsibility and also probe as to whether it is a case of mere negligence on the part of the concerned bank officer or a deliberate attempt to help the other side; that the cost so imposed and paid shall be recovered from salary of the concerned erring officer of the petitioner bank to recompense the exchequer; and that the said inquiry shall

be concluded within one month from today and report in the form of affidavit of the General Manager concerned shall be filed before the trial court within one week thereafter. In order to ensure compliance, copy of this order be sent to the Chairman and Managing Director of the petitioner bank.

6. The petitioner bank shall appear before the learned trial court on 29.10.2025 at 10:00am for further proceedings.

7. Pending applications also stand disposed of.

GIRISH KATHPALIA

GIRISH KATHPALIA
(JUDGE)

OCTOBER 16, 2025/as