



2025:DHC:8592



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

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Date of Decision: 25.09.2025

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CM(M) 1905/2025, CM APPL. 61254/2025 & 61253/2025

SHARAD KAPOOR, PROPRIETOR OF M/S ACE ELECTRONICS

.....Petitioner

Through: Ms. Rhea Luthra and Ms. Aishwarya
Jain, Advocates

versus

PRAMOD TELECOM PRIVATE LIMITED

.....Respondent

Through: None

CORAM: JUSTICE GIRISH KATHPALIA**ORDER (ORAL)**

1. Petitioner/plaintiff has assailed order dated 27.08.2025 and order dated 18.09.2025 of the learned trial court, whereby the trial court, being not satisfied with the issue of service of the summons of the suit, directed fresh service of summons vide order dated 27.08.2025 and dismissed the application for recall of the said order by way of order dated 18.09.2025.

2. Broadly speaking, on 27.08.2025, the Ahlmad of the trial court reported that summons sent to the defendant (*respondent herein*) had not been received back, so the learned trial court directed issuance of fresh summons through ordinary mode as well as registered/speed post and authorized courier returnable on 22.09.2025. But apparently, the



petitioner/plaintiff did not take fresh steps and opted to move an application seeking recall of order dated 27.08.2025, claiming that affidavit of service of the defendant/respondent through speed post along with original postal receipts and tracking report had been filed by petitioner/plaintiff on 03.05.2025 and physical copy thereof was filed in court on 28.05.2025. After perusal of the affidavit of service, the learned trial court rejected the same and held that the defendant/respondent could not be deemed to have been served with the summons for two reasons, namely the affidavit of service was not filed by the person who allegedly booked the postal article and there is no mention if the postal article was the same as received from Ahlmad of the Court.

3. Learned counsel for petitioner/plaintiff contends that the impugned orders are not sustainable in the eyes of law because the affidavit of service is a curable irregularity. Learned counsel for petitioner/plaintiff also seeks stay of trial court proceedings, which request seems unusual because petitioner himself is the plaintiff in the suit. On this aspect, learned counsel for petitioner/plaintiff discloses that the learned trial court has also imposed cost on the petitioner for failure to take steps.

4. At the outset, it is trite that whether or not a party is served with summons/notice is a matter of satisfaction of the court issuing the same. Even the provision under Order V Rule 20 CPC clearly stipulates that satisfaction of the trial court as regards status of service of process is a mandatory condition.



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5. Besides, the orders impugned in the present petition can, by no stretch, be held to be perverse, which would call for invoking jurisdiction under Article 227 of the Constitution of India.

6. It appears from the aforesaid that petitioner/plaintiff has brought this petition simply to avoid payment of cost imposed by the trial court.

7. I am unable to find any infirmity in either of the orders impugned in this case, so both impugned orders are upheld. The present petition is not just devoid of merit but also is frivolous so dismissed with cost of Rs. 10,000/- to be deposited by the petitioner with DHCLSC within one week. Pending applications also stand disposed of.

**GIRISH KATHPALIA
(JUDGE)**

SEPTEMBER 25, 2025/as