



2025:DHC:6839



\$~74,75,76 & 86

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

% *Date of Decision: 12th August, 2025*

+ CM(M) 1493/2025 & CM APPL. 49287/2025
M/S EMINENT INFRADEVELOPERS PVT LTD ANR

.....Petitioner

Through: Mr. Mohit Gupta, Ms. Anisha Gupta,
Ms. Seemab Ali Fatima and Mr.
Vishal Saxena, Advocates.

versus

BRIJ MOHAN SHARMA AND ANR

.....Respondent

Through: None.

75

+ CM(M) 1494/2025 & CM APPL. 49288/2025
M/S EMINENT INFRADEVELOPERS PVT LTD AND ANR

.....Petitioner

Through: Mr. Mohit Gupta, Ms. Anisha Gupta,
Ms. Seemab Ali Fatima and Mr.
Vishal Saxena, Advocates.

versus

BRIJ MOHAN SHARMA AND ANR

.....Respondent

Through: None.

76

+ CM(M) 1495/2025 & CM APPL. 49289/2025
M/S EMINENT INFRADEVELOPERS PVT LTD AND ANR

.....Petitioner

Through: Mr. Mohit Gupta, Ms. Anisha Gupta,
Ms. Seemab Ali Fatima and Mr.
Vishal Saxena, Advocates.

versus



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TEJ RAJ SINGH

.....Respondent

Through: None.

86

+

CM(M) 1503/2025 & CM APPL. 49457/2025

M/S EMINENT INFRADEVELOPERS PVT LTD AND ANR.

.....Petitioner

Through: Mr. Mohit Gupta, Ms. Anisha Gupta,
Ms. Seemab Ali Fatima and Mr.
Vishal Saxena, Advocates.

versus

TEJ RAJ SINGH

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioners herein have filed two different suits and seek recovery of Rs.95,989.82/- (in CS SCJ No.96/2020) and Rs. 1,66,752.87/- (in CS SCJ No.150/2020).
2. The defendants therein participated in the proceedings and filed respective written statements as well and after the issues were framed, both the cases were fixed for plaintiff's evidence.
3. However, thereafter, the matter was not defended by the defendants in the desired manner and even the cross-examination of plaintiff's witness i.e. PW-1/Rajeev Kumar was not conducted. Noticing such conduct of the defendants, the learned Trial Court closed their right to cross-examine PW-1 *vide* order dated 14.05.2024 and the case was, thereafter adjourned for



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defendant's evidence.

4. Fact, remains, that when the suits were taken up by the learned Trial Court on 13.08.2024, the learned counsel for defendant sought permission to withdraw his vakalatnama while also submitting that he had informed the concerned party in this regard.

5. Resultantly, such counsel was discharged and the learned Trial Court, and rightly so, issued Court Notice to defendants apprising them about the withdrawal of vakalatnama by their counsel and to put appearance before the Court.

6. Such Court Notice could not be served and when the learned Trial Court took up matter on 07.11.2024, it declined to issue any fresh Court Notice, observing that defendants were well aware about the suits and were not deliberately appearing in the matters and were proceeded against *ex-parte* on 07.11.2024.

7. Admittedly, the defendants moved applications in both the abovesaid suits under Order IX Rule 7 CPC praying therein that *ex-parte* order dated 07.11.2024 be set aside.

8. They claimed that they were senior citizens and permanent residents of the State of Uttarakhand and also stated therein that there was some communication gap between their counsel and them and their counsel failed to inform them about the proceedings, properly.

9. Claiming that their non-appearance was neither intentional nor wanton, they prayed for setting aside *ex-parte* order and by virtue of another application they also sought permission to cross-examine PW-1/Mr. Rajeev Kumar.

10. The grievance in the present petitions is with respect to order dated



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17.05.2025 whereby the learned Trial Court has set aside the *ex-parte* order and has also allowed the application moved by defendants under Order XVIII Rule 17 CPC.

11. The prime contention coming from the side of the petitioners/plaintiffs is to the effect that no reason, much less a compelling one, was existing for having given any indulgence to the defendants

12. It is submitted that the defendants have been, successfully, able to delay the proceedings and *ex-parte* order should not have been set aside, merely on the ground of alleged communication gap.

13. There is, however, one important aspect of the case which cannot be lost sight of. When the Court had already chosen to issue Court Notice to the defendants, it should have ensured that such Court Notice was duly served. If despite such service of the Court Notice, defendants had not bothered to appear or defend the matter, it would have been, certainly, a different thing.

14. Be that as it may, mere fact that the provisions contained under Order IX Rule 7 CPC and for that matter under Order XVIII Rule 17 CPC have been construed in a liberal manner would not, *ipso facto*, give any ground to invoke supervisory jurisdiction.

15. The interference by the supervisory Court is required when there is glaring illegality or perversity in such orders.

16. Unfortunately, no such situation exists in the case in hand.

17. The learned Trial Court while permitting the defendants to participate in the proceedings has also burdened them with cost and keeping in mind overall facts of the case, this Court does not find any substantial reason to interfere with the impugned orders.

18. However, the suits, which were instituted way back in the year 2020,



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have already got delayed considerably and, therefore, while dismissing the present petitions, this Court also requests the learned Trial Court to give top-most priority to both the suits of the petitioners and to make best endeavour to dispose those of within one year.

19. Needless to say, the defendants would not be entitled to seek any unwarranted adjournment in future and would provide their best assistance and cooperation to the learned Trial Court so that such expeditious disposal is eventually achieved.

20. All four petitions stands disposed of in aforesaid terms.

21. Pending applications also stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 12, 2025/ss/js