



2025:DHC:6840



\$~82

* IN THE HIGH COURT OF DELHI AT NEW DELHI

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

+ CM(M) 1501/2025& CM APPL. 49435/2025

DILIP RAWAL

.....Petitioner

Through: Mr. Sushant Kumar, Adv.

versus

M/S MOTHERS PRIDE EDUCATION PERSONNA PVT. LTD. &
ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner had filed a commercial suit, under summary procedure. He was seeking recovery of Rs.24,79,600/-.
2. The suit was instituted in the year 2019 and was later on converted into an ordinary suit.
3. When the abovesaid suit was taken up by learned District Judge (Commercial Courts) on 20.02.2024, it noted that the requisite steps had not been taken by the plaintiff to affect service upon defendants No.2 and 3 and no steps had either been taken to issue notice to defendant No.1.
4. The abovesaid directions were to be complied with by plaintiff in terms of one earlier order dated 20.01.2024.
5. After noticing previous conduct of plaintiff, which indicated that



2025:DHC:6840



despite endless opportunities and imposition of cost, the plaintiff has not taken the desired steps, the learned Trial Court dismissed the suit for non-prosecution, observing that, the plaintiff was habitual defaulter and has been wasting precious judicial time and that he was not interested in prosecuting the suit.

6. Plaintiff filed an application under Order IX Rule 4 seeking recall of abovesaid order and conservant restoration of the suit but such application has also been dismissed on 16.04.2024.

7. Such order is under challenge.

8. It is also apprised that earlier the abovesaid order dated 16.04.2024 was challenged by filing a revision petition under Section 115 CPC, but since the order in question was not amenable to revision, the petition was dismissed while granting liberty to take appropriate steps in accordance with law, for redressal of his grievances.

9. It is, in view of the abovesaid liberty granted by Co-ordinate Bench of this Court on 15.05.2025, the present petition has been filed.

10. Undoubtedly, the manner in which the plaintiff had been pursuing his suit leaves much to be desired and, therefore, primarily, he himself is liable for his miseries.

11. At an earlier point of time also i.e. on 03.07.2023, the suit was dismissed for non-prosecution and was, eventually, restored by learned Trial Court on 20.01.2024, subject to cost of Rs.5,000/-.

12. Undoubtedly, pursuant to the earlier service effected upon defendants, defendant No.1 had put in appearance.

13. Written statement was also filed by defendant No.1, though it was not taken on record as it was belated one. Reference in this regard be made to



2025:DHC:6840



order dated 26.04.2023, whereby, the written statement was taken off the record.

14. During course of arguments, learned counsel for petitioner, while acknowledging the casual approach of plaintiff, assures that there would not be any further inaction on his part and that the plaintiff would scrupulously follow all the directions to be given by learned Trial Court. He submits that if the suit is not restored, it would cause serious prejudice to the case of the plaintiff, who seeks recovery of substantial amount from the defendants.

15. Since the defendants were not participating in the proceedings, learned Trial Court decided the abovesaid application without giving any notice to the opposite side. Evidently, it was not required since the suit has been dismissed for not submitting the process fee within time. Keeping in mind the overall facts of the case and the assurance given by learned counsel for plaintiff, the petition is allowed and the suit in question is directed to be restored to its original number and position.

16. Petitioner/plaintiff would to appear before learned Trial Court on 25.08.2025 at 10:00 AM and it is expected that any further direction given by learned District Judge (Commercial Courts) would be scrupulously and punctually followed. It is clarified that no further inaction on the part of the plaintiff would be tolerated. Simultaneously, the plaintiff/petitioner is also burdened with cost of Rs.25,000/- which be deposited with *Delhi Legal Services Authority, South-West District, Dwarka Courts* within a period of one week from today and the proof thereof be submitted before learned Trial Court on the said date.

17. Petition stands disposed of alongwith pending application in aforesaid terms.



2025:DHC:6840



18. A copy of this order be given *dasti* under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

AUGUST 12, 2025/ck/shs