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

% *Date of Decision: 15th May, 2025*

+ CM(M) 907/2025 & CM APPL. 29417-29419/2025

VISHAL MAHESHWARIPetitioner

Through: Mr. Sanjeev Bindal, Advocate.

versus

G4S FACILITY SERVICES (INDIA) PVT. LTD.Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner had filed a suit which was commercial in nature.
2. Summons were sent to the defendant but despite being summons served upon the defendant, since there was no appearance from its side, it was proceeded against *ex-parte* on 15.12.2021 and *vide* order dated 25.07.2023, the suit was decreed in favour of the plaintiff.
3. Pursuant to the abovesaid decree, an execution was filed and it was only in relation to the orders passed during execution proceedings that the defendant learnt about the abovesaid *ex-parte* judgment and filed an application under Order IX Rule 13 CPC seeking to set aside the abovesaid *ex-parte* order.
4. The learned Trial Court, *vide* order dated 24.08.2024, has set aside the *ex-parte* order while holding that summons were not properly served upon the defendant. Moreover, it also observed that it should not have proceeded *ex-parte* on 15.12.2021, as at that time, the second wave of Covid-19



Pandemic was at its peak and there were administrative directions for the Courts not to pass adverse orders against the parties for their non-appearance.

5. It is in the abovesaid backdrop that the *ex-parte* order has been set aside.

6. Such order is under challenge.

7. Order dated 15.12.2021 reads as under:-

“15.12.2021

Present: Ms. Shivani Gupta, Advocate for the plaintiff
None for defendant despite due service on

10.02.2021.

Defendant has neither appeared nor filed written statement within limitation period. **Therefore, defendant is proceeded ex-parte.**

Put up for ex-parte evidence on 12.07.2022”

8. Suit has been filed against *G4S Facility Services (India) Pvt. Ltd.* and summons were also issued to the same concern. However, as per the process report, the summons were served upon employee of another company known as *G4S Secure Solutions India Private Limited*.

9. Though, it was contended from the side of decree-holder that it was a group company and, therefore, it was a valid service, the learned Trial Court was of the view that since the service was on a different corporate entity, it was not a valid service. The learned Trial Court also referred to the judgment of *Sushil Kumar Sabharwal v. Gurpreet Singh and Others: (2002) 5 SCC 377*, wherein it is observed that it is the knowledge of the date of hearing and not the knowledge of pendency of suit, which is relevant for the purposes of deciding Order IX Rule 13 CPC.

10. Even if, it is assumed that the defendant had been validly served on 10.02.2021 or for that matter had any knowledge about the pendency of the suit, it would not come to the rescue of the plaintiff, simply for the reason that



in terms of the specific administrative directions issued by this Court, the learned Trial Court should not have passed any adverse order on account of pandemic of Covid-19.

11. It seems that after 10.02.2021, no further process was ever issued to the defendant and based on the service report dated 10.02.2021 only, the defendant was proceeded ex-parte on 15.12.2021.

12. The scope of interference under Article 227 of the Constitution of India is, even otherwise, is very restricted and constricted one and the order passed while exercising discretionary power given under Order IX Rule 13 CPC should not be disturbed, unless there is some illegality or perversity in the impugned order.

13. Viewed thus, this Court does not find any reason to interfere with the impugned order. The petition is, accordingly, dismissed.

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

(MANOJ JAIN)
JUDGE

MAY 15, 2025
st/js