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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 21st May, 2025***
+ **CM(M) 645/2025, CM APPL. 20431/2025 & CM APPL. 20432/2025**

RAM BHAROSE

.....Petitioner

Through: Mr. Dushyant Chaudhary and Mr.
Sunil Raut Bharti, Advs. with
Petitioner in person.

versus

SHAKUNTALA & ANR.

.....Respondents

Through: Mr. Avnish Shukla, Adv. for R-1.
Mr. Neeraj Bhandari, Mr. Prashant
Sharma and Mr. Prem Bhardwaj,
Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is defending a suit filed by Smt. Shakuntala (respondent No. 1 herein) who seeks specific performance of the contract and injunction.
2. Defendant No. 1 participated in the above said suit and had even filed his written statement. Thereafter, the matter was referred to mediation and settlement took place before *Delhi Mediation Centre, Karkardooma Courts, Delhi* on 10.01.2024. In terms of the settlement, the plaintiff was to make a further payment of Rs. 3,30,000/- to defendant no. 1 and plaintiff had also agreed to withdraw the suit in question.
3. However, it appears that such settlement terms were, later on, found to be not acceptable to defendant No.1 as he did not appear before the learned



Trial Court for making requisite statement in terms of the above said settlement.

4. He was, eventually, proceeded against *ex parte* on 21.08.2024.

5. He moved an application seeking setting aside such of *ex parte* order and is aggrieved by the dismissal of his such application.

6. Learned Trial Court was, primarily, concerned with the manner in which the defendant No.1 was conducting himself. It recorded in the impugned order that despite there being a settlement between the parties, neither defendant No. 1 nor its counsel appeared before the learned trial Court on effective dates despite being mindful of the proceeding being conducted by the Court.

7. When the matter was referred for mediation, the issues had already been framed and the plaintiff had submitted his affidavit with respect to his evidence.

8. Such affidavit is yet to be tendered in evidence.

9. While dismissing the above said application, learned Trial Court has also burdened defendant No.1 with cost of Rs. 10,000/-.

10. Undoubtedly, if the terms of settlement were not acceptable to defendant No. 1, instead of avoiding Court proceedings, he should have appeared before the learned Trial Court and should have made appropriate submission, instead of playing a hide-and-seek game.

11. Be that as it may, since no substantial development has taken place, in the interregnum, no prejudice would be caused to the plaintiff either, if defendant No.1 is permitted to participate in the proceedings and if *ex parte* order is set aside.

12. Keeping in mind the overall facts of the case and while also cautioning



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defendant No. 1 to give complete assistance and corporation to the learned Trial Court in future, the present petition is disposed of with direction that the *ex parte* order dated 21.08.2024 is set aside. However, the cost of Rs. 10,000/- would instead go to the plaintiff and let the above said cost be cleared on or before the next date of hearing before the learned Trial Court which is stated to be 12.07.2025.

13. The petition along with pending application stands disposed of in view of the aforesaid.

(MANOJ JAIN)
JUDGE

MAY 21, 2025/ab/shs