



2025:DHC:7243



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 21st, August, 2025***

+ CM(M) 1566/2025, CM APPL. 51546/2025, CM APPL. 51547/2025

& CM APPL. 51661/2025

M/S SWADESHI DHAM

.....Petitioner

Through: Mr. Narander Kalra, Adv.

versus

M/S MABEL APPAREL PVT LTD

.....Respondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Petitioner is aggrieved by order dated 14.01.2025 whereby its three applications have been dismissed. These are under Order VII Rule 11 CPC, Order IX Rule 7 CPC and under Section 5 of Limitation Act.
2. The facts lie in a very narrow compass.
3. The suit in question is a commercial suit and, despite the alleged service upon defendant, it never appeared before learned Trial Court and, therefore, it was proceeded *ex-parte* on 25.01.2023.
4. Fact, however, remains that on 18.07.2023 i.e. after more than a period of six months when it was proceeded *ex-parte*, defendant moved an application under Order VII Rule 11 CPC, contending that there was no cause of action in the matter.
5. During pendency of the abovesaid application, he moved another application under Order IX Rule 7 CPC praying therein that the *ex-parte* order



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be set aside and in support of such its prayer, it also moved an application seeking condonation of delay.

6. In its application moved under Order IX Rule 7 CPC, defendant contended that the summons were sent to its old address and it was actually never received by it. As per impugned order, one Mr. Sunil Vohra was found available at the address of the defendant, who telephonically contacted the defendant and, thereafter, accepted the summons.

7. According to defendant, said Mr. Sunil Vohra never contacted him on phone.

8. However, fact remains that defendant never bothered to divulge as to when and how, it learnt about the suit in question. Since it had filed an application under Order VII Rule 11 CPC, it has to be, necessarily, assumed that it was already having the copy of the plaint. Obviously, without having copy of plaint and without knowing as to what has been averred in the plaint, no applicant can file any application under Order VII Rule 11 CPC, complaining that the suit in question has been filed without *cause of action*.

9. Thus, even prior to 18.07.2023, the defendant was very much aware that a suit had been filed against it and it was also having the copy of plaint with it.

10. Despite above, for the reasons best known to it, the defendant never cared to participate in the proceedings of the suit and even the abovesaid application under Order IX Rule 7 CPC was filed after the expiry of outer permissible limit of 120 days.

11. The law on this aspect is very clear.

12. The period prescribed for filing written statement is inflexible and reference in this regard be made to *SCG Contracts (India) Pvt. Ltd. v. K.S.*



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Chamankar Infrastructure Pvt. Ltd. & Ors : (2019) 12 SCC 210. The same judgment while relying upon *R.K. Roja v. U.S. Rayudu & Anr : (2016) 14 SCC 275* also goes on to hold that rejection of an application under Order VII Rule 11 CPC cannot be made as a ruse for retrieving the lost opportunity to file the written statement.

13. In view of above, this Court does not find any reason to interfere with the impugned order as it does not disclose any illegality or perversity.

14. The petition stands dismissed in *limine*.

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

(MANOJ JAIN)
JUDGE

AUGUST 21, 2025/ck/shs