



2025:DHC:10361



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

% Judgment delivered on: 24/11/2025

+ **RFA-485/2025**

SH. GAURAV KHATTAR.

.....Appellant

versus

SH. VIRENDER AGGARWAL.

....Respondent

Advocates who appeared in this case

For the Appellant : Mr. Dishant Sharma, Advocate.

For the Respondent :

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

REVIEW PET. NO. 427/2025 & CM Nos. 48756/2025, 48757/2025 & 48865/2025

1. The present Petition has been filed by the Appellant / Petitioner under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908 (“CPC”) praying for the review of the Judgment dated 25.06.2025 passed by this Court in RFA 485/2025 (“**Judgment**”).
2. The Appellant / Petitioner has filed the present Petition on the grounds that *firstly*, there is an error apparent on the face of the record in the



2025:DHC:10361



Judgement and *secondly*, there is discovery of new and important evidence by the Appellant / Petitioner.

SUBMISSIONS ON BEHALF OF THE APPELLANT / PETITIONER:

3. The learned Counsel for the Appellant / Petitioner submitted that the Appellant / Petitioner has discovered new and important evidence, which was not within the knowledge or possession of the Appellant / Petitioner at the time of filing of the Appeal. The newly discovered documents include *firstly*, a copy of the Appellant's / Petitioner's Aadhar Card showing the Appellant's / Petitioner's address at 219, Teliwara, Shahadara, East Delhi, Delhi-110032, and *secondly*, a copy of Bank Passbook reflecting the said address of the Appellant / Petitioner at the relevant time. It is further submitted that the said documents clearly establish that the Appellant / Petitioner was residing at 219, Teliwara, Shahadara, East Delhi, Delhi-110032, whereas the summons were allegedly served at a different address i.e., 186, Teliwara, Delhi. Therefore, the Appellant / Petitioner had no knowledge of the suit instituted against him.

4. The learned Counsel for the Appellant / Petitioner submitted that the Court failed to consider the material documents in the Judgment, which are – *firstly*, the Medical Record / Discharge Summary showing cataract surgery in December, 2016 establishing the vision impairment of Appellant's / Petitioner's father and *secondly*, documents regarding the suicide attempt of the Appellant's / Petitioner's sister and the resultant estrangement with the Appellant's / Petitioner's father. It was further submitted by the learned Counsel for the Appellant / Petitioner that the said documents clearly establish that the Appellant / Petitioner and his father were *firstly*, not on speaking terms and *secondly*, the Appellant's / Petitioner's father was



2025:DHC:10361



suffering from vision impairment, due to which he was unable to comprehend or communicate the legal matters. Therefore, there was no valid service of summons that took place and the decree was passed without affording the Appellant / Petitioner an opportunity to be heard.

5. In view of the foregoing submissions, it is prayed that the present Review Petition be allowed.

ANALYSIS AND FINDINGS:

6. *Vide* Judgment, the Appellant's / Petitioner's Appeal being RFA 485/2025 against the Judgment and Decree dated 10.06.2016 passed in Civil Suit No.2626/2016 by the Court of District & Sessions Judge, East, Karkardooma Courts, Delhi was dismissed and it was observed that:

"20. At the outset, there is an inordinate delay of 3192 days in filing the present Appeal. The justification provided by the Appellant in the application being CM APPL. 32694/2025 is that the Appellant was not aware about the service of summons as the same was never served upon the Appellant personally, but upon his old aged father, who in turn never informed about the service of summons to the Appellant.

21. The Appellant has submitted that the Appellant became aware about the Impugned Judgement only when he received the notice of the execution petition in July, 2023. Thereafter, the Appellant inadvertently filed an application under Order XXXVII Rule 4 of CPC before the learned Executing Court, which was dismissed due to lack of jurisdiction. The Appellant, thereafter, filed the said application before the learned Trial Court, which was dismissed on 20.01.2025 on the ground of limitation as well as on merits.

22. The Appellant has also stated that he had withdrawn himself from the society from 01.08.2016 until he was arrested on 15.12.2021 and, thereafter, was released on bail on 18.01.2022.

23. The above justification is not sufficient to condone the delay of 3192 days in filing the present Appeal as the summons was duly served in accordance with the provisions of the CPC. Further, the Appellant has not denied the actual service of the summons but has



2025:DHC:10361



only questioned the manner of service being improper. Therefore, the contention of the Appellant that the summons of the Suit was never served upon the Appellant personally cannot be accepted for setting aside the Impugned Judgement.

24. The alleged withdrawal from the society since 01.08.2016 was subsequent to the passing of the Impugned Judgement on 10.06.2016. Therefore, the justification given for condoning the delay in filing the Appeal on the ground of Appellant withdrawing from the society is also not justifiable.

25. Both the learned Executing Court and the learned Trial Court rightly dismissed the applications under Order XXXVII Rule 5 of CPC on the ground of delay as well as on merits.

26. Even otherwise, the grounds of the present Appeal challenging the Impugned Judgment on merits are not sufficient to interfere with the Impugned Judgment. The Appellant has admitted giving the cheques to the Respondent against a loan, however, has failed to produce any evidence in support of such bald averments. The Appellant has not been vigilant about his rights and failed to appear before the learned Trial Court despite service of summons in accordance with law.

27. The justification given in the Appeal and the application for condonation of delay for filing the Appeal are clearly an afterthought and do not inspire confidence. The Appellant has approached this Court with inordinate delay of 3192 days in filing the present Appeal without any sufficient reason for condoning the same.”

7. Accordingly, vide Judgment, the Appellant's / Petitioner's Appeal was dismissed on the ground of delay as well as on the merits of the case. The Appellant / Petitioner has prayed to review the Judgment on two grounds - *first*, the Appellant / Petitioner relies on newly discovered evidence to establish improper service of summons; and *second*, the Appellant / Petitioner claims that there exists an error apparent on the face of the record as the Judgment failed to consider the material placed on record.



2025:DHC:10361



8. As regards the reliance placed on new documents by the Appellant / Petitioner, which he claims were not within his knowledge or possession at the time of filing the Appeal, the said documents include a copy of the Appellant's / Petitioner's Aadhar Card and a copy of the Appellant's / Petitioner's Bank Passbook. The learned Counsel for the Appellant / Petitioner made oral submission before this Court that the said documents were not within the knowledge and possession of the Appellant / Petitioner as the same were in the custody of the Appellant's / Petitioner's estranged father. However, the said documents were always within the power of the Appellant / Petitioner as the same can be retrieved from the concerned authorities maintaining the record by exercising due diligence.

9. It is the case of the Appellant / Petitioner that the said documents show that the Petitioner resided at a different address from where the summons were served. Even if reliance is placed on the said documents, they do not establish that the Appellant / Petitioner was residing at a different address, as mentioned in the said documents, at the time of the service of summons. Further, it is clear from the record that summons were successfully served upon the Appellant / Petitioner through his father in accordance with the provisions of the CPC.

10. Adverting to the second ground taken by the Appellant / Petitioner, it is the Appellant's / Petitioner's case that the documents placed on record regarding cataract surgery of the Appellant's / Petitioner's father in December 2016 and the suicide attempt of the Appellant's / Petitioner's sister, were not considered by this Court. Therefore, it is contended by the Appellant / Petitioner that there exists an error apparent on the face of the record.



2025:DHC:10361



11. The learned Counsel for Appellant / Petitioner contended that the said documents reveal that as the Appellant's / Petitioner's father was visually impaired and was under immense stress due to Appellant's / Petitioner's attempt to commit suicide, he could not comprehend and inform the Appellant / Petitioner regarding the service of summons.

12. However, the record shows that summons were served upon the Appellant / Petitioner on 18.05.2016 through his father. Admittedly, the Appellant's / Petitioner's father underwent cataract surgery in December, 2016, which was subsequent to the service of Summons.

13. The submissions made by the Appellant / Petitioner is based on assumptions and appears to be an afterthought. The requirement for valid service of summons under the CPC stood satisfied, when the summons were served on Appellant's / Petitioner's father much prior to his surgery. Hence, even considering the documents, it is not established that the summons were not properly served. Accordingly, there is no error apparent on the face of the record.

14. In view of the above, no ground has been made out for reviewing the Judgment. The present Review Petition stands dismissed. All pending applications stand disposed of.

TEJAS KARIA, J

NOVEMBER 24, 2025

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