



2026:DHC:4783



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

Reserved on : 22.04.2026  
% Pronounced on : 26.05.2026  
Uploaded on : 26.05.2026

+ **FAO 8/2024**

**AJIT KUMAR**

.....Appellant

Through: Mr. Praveen Suri, Mr. Rajneesh  
Verma, Advocates

versus

**M/S MONK TRADING PVT. LTD. AND ORS**

.....Respondents

Through: Mr. Vinay Kr. Garg, Sr. Advocate  
with Mr. Ayush Gupta and Mr.  
Kalandeep, Advocates for respondent  
No.1.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**JUDGMENT**

1. The present appeal has been preferred under Section 104 read with Order XLIII Rule 1(d) CPC against the impugned order dated 09.12.2023 passed in Misc. No. 608/2022 titled "*M/s Monk Trading Pvt. Ltd. v. Ajit Kumar*", by the Court of learned ADJ-06, Central District, *Tis Hazari Courts, Delhi*, whereby the appellant's application under Order IX Rule 13 CPC seeking setting aside of the *ex parte* decree dated 09.05.2022 was dismissed.

2. Briefly stated, the respondent-M/s Monk Trading Pvt. Ltd. (hereinafter referred to as the 'plaintiff') had filed a suit seeking relief of



possession, permanent injunction and mesne profits. In the suit, it was claimed that one *Kale Ram* was the owner of land measuring *31 bighas and 8 biswas* situated in the revenue estate of Village *Gadaipur, New Delhi* (hereinafter referred to as the ‘suit property’). Upon his demise, the property devolved upon his legal heirs, including his sons namely *Gyasi Ram, Shyam Lal* and *Rambal*. Upon the demise of *Rambal*, his share devolved upon *Rajbir Singh*, son of *Rambal*. Thereafter, *Rajbir Singh*, vide two separate sale deeds, sold one-third share of the suit property to *Daya Ram*. As per the revenue records, *Gyasi Ram, Shyam Lal* and *Daya Ram* were recorded owners of equal shares in the suit property. The aforesaid persons subsequently sold their respective shares in the suit property by virtue of four sale deeds executed in the year 1994.

3. Along with *Rajbir Singh*, his two sons namely *Manoj* and *Satbir* were arrayed as defendant Nos. 2 and 3 respectively. During the pendency of the suit, *Rajbir Singh* expired. Pursuant to an application filed under Order XXII Rule 4 CPC, vide order dated 01.11.2021, the appellant-*Ajit Kumar* was impleaded as one of the legal representatives of the deceased *Rajbir Singh*. The impugned order records that despite service, the appellant did not appear and eventually the suit came to be decreed in favour of the plaintiff.

4. Mr. *Praveen Suri*, learned counsel appearing on behalf of the appellant, while assailing the impugned order, contends that the appellant was never served with summons in the application under Order XXII Rule 4 CPC. It is submitted that the appellant’s service was shown through his brother *Manish Singh* at 501, Village *Ghitomi, New Delhi* (hereinafter referred to as the ‘old address’), whereas the appellant had already shifted to another address i.e., *Khasra No. 30, Ground Floor, Village Gadaipur, New*



*Delhi* (hereinafter referred to as the ‘new address’). It is further contended that the appellant was not on cordial terms with his brother Manish Singh.

In support of the plea that he had shifted to the new address, reliance is placed upon the Aadhaar Card of the appellant, which reflects updating of address on 17.10.2016. Reliance is also placed on electricity bills of the year 2015 pertaining to the new address.

5. *Per contra*, Mr. Garg, learned Senior Counsel appearing on behalf of respondent No.1/plaintiff, submits that the appellant is guilty of suppression of material facts. It is submitted that the appellant has approached both the Trial Court as well as this Court without candid disclosure regarding his knowledge of the pendency of the suit and has also raised false averments regarding strained relations with his brother Manish Singh. Learned Senior Counsel further submits that although the appellant claims to have shifted from the old address in the year 2014, the Aadhaar record continued to reflect the old address i.e., *501, Village Ghitomi, New Delhi*, as on 17.01.2016. The new address came to be updated only on 17.10.2016.

6. At this stage, the Court takes note of two proceedings wherein the appellant was impleaded as a party and shown to be residing at the old address. A suit bearing CS No. 28/2014 was filed by the appellant along with the other legal heirs of *Rajbir Singh* seeking cancellation of the sale deed executed in favour of the respondent. In the said case, the appellant as well as the other legal heirs were shown to be residing at the old address. Crl. Misc. No. 5153/2017 was also filed wherein the appellant was arrayed as petitioner No. 4 and shown to be residing at the old address. The petition was accompanied by an affidavit of the appellant. More importantly, the appellant executed a *Vakalatnama* on 11.07.2022 in favour of his counsel,



Ms. *Prachi Hasija*, wherein the new address was mentioned. On the strength of the said *Vakalatnama*, the learned counsel had also carried out inspection of the records in the underlying suit. The inspection application itself mentions the date of decision in the suit as 09.05.2022, which reflects that the appellant was aware of the passing of the decree at least on 11.07.2022. Not only this, the impugned order also records that the appellant had appeared on 18.09.2021 and his appearance was duly noted in the proceedings sheet of the Trial Court on that date.

Thus, the appellant's claim that he became aware of the passing of the decree only on 19.09.2022 through his elder brothers, namely *Manoj and Satbir*, belies the records and liable to be rejected.

7. It is also worthwhile to note that the appellant's brother had assailed the decree dated 09.05.2022 by filing RFA No. 288/2022. In the said proceedings also, the appellant was impleaded as respondent No.3 and his appearance was recorded in the order sheet dated 15.07.2022. However, as noted above, in the present application, the appellant has claimed knowledge of the passing of the *ex parte* decree only on 19.09.2022.

As such, the appellant's claim of acquiring knowledge on said date is clearly contrary to his appearance noted in order dated 18.09.2021 before the Trial Court, the inspection application dated 11.07.2022, as well as his appearance noted in order dated 15.07.2022 in RFA No. 288/2022. Even if the appellant had shifted to the new address at the time when service was effected at the old address through his brother *Manish*, he has certainly suppressed material facts relating to his knowledge of the passing of the decree. Notably, all the legal heirs of *Rajbir Singh* were served through *Manish* and while the others appeared, the appellant alone denied service.



The appellant has not disputed his appearance as recorded in the order sheet dated 18.09.2021. It is well settled that a litigant approaching the Court must do so with clean hands and disclose all material facts. Suppression of material facts disentitles a party from claiming equitable relief. Therefore, he is not entitled to claim relief and on this ground only, the present appeal deserves to be dismissed.

In this regard, reference may be made to the decision of the Supreme Court in K.D. Sharma v. SAIL<sup>1</sup>, wherein it was held that suppression of material facts amounts to abuse of the process of Court and such a litigant is not entitled to any discretionary relief. Reliance may also be placed on Dalip Singh v. State of U.P.,<sup>2</sup> wherein the Supreme Court deprecated the tendency of litigants approaching Courts without candid disclosure of facts.

8. In view of the aforesaid discussion, this Court finds no infirmity in the impugned order dated 09.12.2023 passed by the learned ADJ. The present appeal is accordingly dismissed.

9. Pending stay applications, i.e., *CM APPLs. 791/2024, 16458/202*, are disposed of.

**(MANOJ KUMAR OHRI)  
JUDGE**

**MAY 26, 2026**

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<sup>1</sup> (2008) 12 SCC 481

<sup>2</sup> (2010) 2 SCC 114