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* IN THE HIGH COURT OF DELHI AT NEW DELHI
% Date of decision: 29.01.2026

+ FAO(OS) 127/2025
DAYA KISHAN GOELAppellant
Through: Mr. Siddhant Buxy & Ms. Anshika
Prakash, Advs.

versus

SHRI RAMESH CHANDER GOELRespondent
Through: Mr. P.D. Gupta, Sr. Adv. with Mr.
Abhishek Gupta, Adv.

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+ FAO(OS) 128/2025
CHIRAG GOELAppellant
Through: Mr. Siddhant Buxy & Ms. Anshika
Prakash, Advs.
versus
RAMESH CHANDER GOELRespondent
Through: Mr. P.D. Gupta, Sr. Adv. with Mr.
Abhishek Gupta, Adv.

CORAM:

**HON'BLE MR. JUSTICE VIVEK CHAUDHARY
HON'BLE MS. JUSTICE RENU BHATNAGAR**

JUDGMENT

1. Heard learned counsel for the parties.
2. The present appeals have been filed assailing the Order dated 28.08.2025 passed in I.A. No. 16751/2025 in CS (OS) 1239/2008 and I.A. No. 16971/2025 in CS (OS) 1240/2008, *inter alia*, the application of the appellant filed under Order IX Rule 13 of the CPC has been dismissed.
3. It is pertinent to note that the appellant had earlier also filed



applications under Order IX Rule 13 of the CPC, which were dismissed by the Single Judge of this Court. The appeals filed by the appellant challenging the said order were also dismissed by the Division Bench of this Court.

4. The matter reached the Supreme Court by way of Civil Appeal Nos. 10255-10256 of 2024, decided on 08.05.2025, in which the following Order was passed:-

1. *The respondent-plaintiff filed two money suits against the appellant-defendant and his minor son in C.S. (O.S.) No. 1239/2008 and in C.S. (O.S.) No. 1240/2008. The appellant entered appearance in the said suits and also filed the written statements in both the suits. However, at the stage of cross-examination of the appellant, he was proceeded ex-parte on 26.09.2022 and a common ex-parte order was, accordingly, passed against him on 11.11.2022 in both the suits. The appellant, then filed two applications under order IX Rule 13 of the code of Civil Procedure, 1908 (for short, the 'CPC') seeking to set aside the common ex-parte order dated 11.11.2022 in both the suits. The said applications were dismissed by the single Judge of the High Court, vide orders dated 23.01.2023 and 27.01.2023. Aggrieved, the appellant preferred two appeals before the Division Bench of The High Court, challenging the aforesaid orders, which have been dismissed, vide the impugned judgment.*

2. *We are not inclined to interfere with the impugned Judgment of the Division Bench only on the premise that a decree has been drawn in pursuance of the ex-parte order passed by the learned single Judge.*

3. *In such view of the matter, liberty is granted to the appellant to file an appropriate application within a period of four weeks from today, challenging the ex-parte decree in the manner known to law, in which case, the impugned judgment of the Division Bench and the order(s) passed by the learned Single Judge will not stand in the way.*



4. *The question of limitation shall also not be put against him as we are inclined to apply section 14 of the Limitation Act, 1963.*
5. *The appeals are disposed of, accordingly. All the issues are left open, including the maintainability of the application to be filed by the appellant.*
6. *Pending application(s), if any, shall also stand disposed of.*

5. Learned counsel for the appellant firmly relies upon Paragraph 3 of the Order of the Supreme Court dated 08.05.2025 and more particularly on the last two lines and submits that the order of the Single Judge and the judgment of the Division Bench is not to come in his way in filing a fresh application under Order IX Rule 13 of the CPC.

6. Learned counsel for the respondent places emphasis upon Paragraph 2 of the Order of the Supreme Court dated 08.05.2025, wherein, the Supreme Court has specifically affirmed the judgment of the Division Bench of the High Court and has declined to interfere with the same.

7. We find that in case the Supreme Court desired a fresh hearing on Order IX Rule 13 application, it could have simply allowed the Civil Appeal Nos. 10255-10256 of 2024 and remanded back the matter. In that event, there was no occasion for the Supreme Court to affirm the judgment rendered by the Division Bench of this Court.

8. On reading of the Order, it is clear that the Supreme Court had only permitted appellant to take recourse to any other permissible proceedings, in accordance with law, and had also granted the benefit of Section 14 of the Limitation Act, 1963, by granting benefit of initiating proceedings before a wrong forum under a wrong provision.

9. Instead of doing the same, the appellant has once again filed an



2026:DHC:735-DB



application under Order IX Rule 13 of the CPC.

10. In our considered opinion, the issue is squarely covered by the earlier judgment of the Division Bench of this Court as well as the order of the Supreme Court. No such permission was granted by the Supreme Court, nor can the said order be construed as granting permission to re-agitate the very same remedy by filing a fresh application under Order IX Rule 13 of the CPC.

11. In view thereof, we do not find any force in the present appeals, and the same are accordingly dismissed. Pending application(s), if any, also stand(s) disposed of.

VIVEK CHAUDHARY
(JUDGE)

RENU BHATNAGAR
(JUDGE)

JANUARY 29, 2026

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