



\$~63

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

+ CM(M) 2042/2023 & CM APPL. 64063/2023

M/S HARDWYN INDIA INC.

.....Petitioner

Through: Mr. Manish Kumar Bishnoi with Mr.
Khubaib Shakeel, Advocates.

versus

SUNNY KUMAR BANSAL

.....Respondent

Through: Mr. Gaurav Gaur and Mr. Vivek Gaur
and Ms. Meghna Bali, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

%

30.04.2025

1. Respondent Sunny Kumar Bansal had filed a suit for recovery which was commercial in nature. It was directed against *M/S Hardwyn India Inc.* and *vide* ex-parte judgment dated 21.12.2022, the suit was decreed.
2. The petitioner herein (defendant before the learned Trial Court) filed an application under Order IX Rule 13 CPC and while considering the same, and pending its adjudication, the operation of judgment and decree was directed to be stayed, *albeit*, subject to the petitioner depositing 50% of decretal amount by way of FDR.
3. Such order dated 16.11.2023 is under challenge.
4. When this petition was taken up by this Court on 12.12.2023, the abovesaid condition was modified and the petitioner was rather permitted to furnish, an *unconditional Bank Guarantee* for the abovesaid amount within a period of one week.
5. Admittedly, *unconditional Bank Guarantee* has already been placed

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 02/05/2025 at 12:08:10

CM(M) 2042/2023



before the learned Trial Court.

6. Learned counsel for petitioner/defendant, however, submits that present petition has become infructuous as the learned Trial Court has already allowed the application moved by them under Order IX Rule 13 CPC.

7. During course of hearing, copy of order dated 12.02.2025 has been shown which clearly records that the application filed under Order IX Rule 13 CPC is found to be a *bona fide* one and that the same stands allowed.

8. Resultantly, the *ex-parte* judgment and decree has also been set aside.

9. Mr. Gaurav Gaur, learned counsel for respondent also does not dispute the abovesaid subsequent development.

10. In view of the above, the present petition is disposed of as having become infructuous and as a necessary corollary, the bank guarantee which the petitioner had submitted and which is lying on the record of learned Trial Court is directed to be returned to the petitioner.

MANOJ JAIN, J

APRIL 30, 2025/sw/PB

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 02/05/2025 at 12:08:10