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

Reserved on: 29th September, 2026
Date of Decision: 14th October, 2026

\# **CNR No. DLHC010458312023**

\+ RFA 910/2023, CM APPL. 58928/2023 & CM APPL. 8192/2024

ANITA CHAUHAN .....Appellant

Through: Mr. Shubham Verma and Mr. Abhishek Anand, Advs. (through VC)

versus

NARESH KUMAR .....Respondent

Through: Ms. Sanya Sharma, Adv. (through VC)

CORAM:
HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

J U D G M E N T

RFA 910/2023

1. The regular first appeal has been filed under Section 96 of the Code of Civil Procedure, 1908 (hereinafter referred to as *"CPC"*) on behalf of the appellant assailing the judgment and decree dated 30th May, 2023, passed by the trial court in CS No. 264/2019, whereby the suit has been decreed against the appellant for recovery of Rs. 5,00,000/- (Rupees Five Lakhs only) along with interest @6% p.a. from the date of filing of the suit till its realization alongwith cost.

2. The facts giving rise to this appeal, in a nutshell, are as under:

2.1. The respondent/plaintiff filed a suit for recovery of Rs. 5,00,000/- along with *pendente lite* and future interest @18% p.a. against the

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appellant/defendant. According to the respondent, the appellant and her husband contacted the respondent *via* telephone seeking a friendly loan of Rs. 5,00,000/- in the month of May, 2016 and assured him that they'll refund the said amount within a period of one (01) year. After considering the financial distress of the appellant as well as his family relations with the appellant, the respondent transferred $10,000 Dollars (approximately Rs. 5,00,000/-) through his Bank i.e., Citi Bank, Sydney Australia in the bank account of the appellant in Punjab National Bank Bearing No. 0629000200243037 on 23rd May, 2016. Despite the requests of the respondent, the appellant had not returned the said friendly loan. Consequently, the respondent sent a legal notice dated 01st December, 2018 to the appellant, claiming the said amount, which was neither replied to nor complied with by the appellant.

2.2. In the written statement, the appellant has denied the averments of the respondent and has taken the plea that the respondent during his visit to India in 2014-2015, had asked the appellant's husband for Rs. 5,00,000/- in Indian currency, the same was arranged by the appellant's husband and given to the respondent on the assurance that the said amount would be returned after the respondent reached Australia. After several requests were made by the appellant, the respondent in May, 2016 returned the said amount.

3. The learned trial court framed the following issues:

> *"1. Whether the plaintiffs are entitled to relief of recovery of Rs. 6.5 Lacs/-, as prayed for? OPP*
>
> *2. Whether the plaintiffs are entitled for to interest, if yes, for what rate and for what period? OPP*
>
> *3. Whether the plaintiff has no locus standi to initiate the present proceedings? OPD*

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4. Relief."

4. Learned counsel for the appellant has argued that the trial court has passed the impugned judgment on the basis of surmises and conjectures, which is against the facts and law. It is further argued that the impugned judgment is liable to be set aside as no sufficient opportunity has been given to the appellant to cross-examine the respondent and also to lead defence evidence.

Per contra, learned counsel for the respondent has argued that the appeal has been filed on flimsy grounds and there is no merit in the appeal as the trial court has passed a reasoned judgment after considering the evidence on record.

5. I have heard the learned counsel for the parties and perused the record.

6. The right of the appellant to cross-examine the respondent (PW-1) has been closed by the trial court after giving opportunities to the appellant. It is only on account of the conduct of the appellant that the right of cross-examination has rightly been closed, which is evident from the order dated 29th March, 2023 of the trial court and is reproduced as under:

> *"At this stage, Ld. Counsel for the plaintiff submits that the plaintiff witness is returning to Australia on the evening of 31.03.2023. At request of plaintiff as well as defendant, this court was inclined to adjourn the matter on 31.03.2023. However, now the counsel for the defendants expressed his inability to cross-examine the witness on 31.03.2023 and has stated that he has to visit his native village and can only cross-examine on 03.04.2023. This clearly shows the malafide intentions of the defendants to delay the matter.*
>
> *Ld. Counsel for the defendants has taken four different stands before this court today to seek adjournment. They are as under:*

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(i) No copy of evidence by way of affidavit received.
(ii) When copy of evidence by way of affidavit supplied and pass over was given to go through the affidavit / prepare, the Ld. Counsel for the defendants came up with an excuse that I do not practice in Civil Courts and therefore, my colleague will come to cross examine the witness.
(iii) When date was given for 31.03.2023, then he expressed his inability to appear as he had to visit his native village (earlier he had stated that he does not practice civil court and cannot cross examine).
(iv) Ld. Counsel for the defendants deliberately pressed for 03.04.2023 despite knowing that plaintiff witness has a flight to board for Australia on 31.03.2023.
In view of the aforesaid observations, the right of the defendants to cross-examine the plaintiff witness stands closed.
Be put up for final arguments on 18.04.2023"

7. It is evident from the trial court record that on 18th April, 2023, no one had appeared on behalf of the appellant, then the case was adjourned for final arguments on 4th May, 2023. On 4th May, 2023, the final arguments were heard on behalf of both the parties and the case was adjourned for orders.

The appellant had never made any request (orally or through an application) before the trial court to lead her evidence, and in fact has advanced final arguments. From the record, it is clear that the conduct of the appellant was always to delay the trial and the appellant never sought an opportunity from the court to lead her evidence. Accordingly, this court does not find any merit in the argument of the appellant that the impugned judgment is liable to be set aside on the ground that the appellant was not given any opportunity to lead her evidence.

8. In evidence, the respondent has examined himself as PW-1 and

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tendered his evidence by way of affidavit which is Ex. PW1/A. In Ex. PW1/A, PW-1 has supported his case as made in the plaint. PW-1 has not been cross-examined by the appellant despite the opportunity being granted to her.

Undisputedly, an amount of Rs. 5,00,000/- has been credited in the account of the appellant by the respondent. The case of the respondent that this amount is a friendly loan to the appellant is supported by his evidence Ex. PW1/A. There is no material on record to prove the plea of the appellant that the said amount was in fact a return made by the respondent, which had been arranged by the appellant's husband and given to the respondent. Accordingly, this defence of the appellant is without any merits.

9. In view of the above discussions, this court finds no sufficient ground to interfere with the decree of recovery of Rs. 5,00,000/- (Rupees Five Lakhs only) alongwith interest @6% p.a. from the date of filing of the suit till its realization alongwith cost.

10. The judgment and decree dated 30th May, 2023 passed by the learned trial court is upheld. Accordingly, the present appeal stands dismissed. Pending applications, if any, also stands disposed of.

RAJNEESH KUMAR GUPTA
JUDGE

OCTOBER 14, 2026/*isk*

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