

IN THE COURT OF [DESIGNATION OF THE PRESIDING OFFICER], [PLACE]

[CASE TYPE] No. ____ of 20__

[NAME OF PLAINTIFF / PETITIONER / COMPLAINANT]... Plaintiff / Petitioner /
Complainant

Versus

[NAME OF DEFENDANT / RESPONDENT / ACCUSED]... Defendant / Respondent /
Accused

Next date of hearing: [DATE]

**APPLICATION UNDER ORDER IX RULE 13 READ WITH SECTION 151 CPC
FOR SETTING ASIDE THE EX PARTE DECREE DATED [DATE]**

Respectfully sheweth:

1. That the above-noted suit was decreed ex parte against the applicant / defendant on [DATE].
2. That [the summons was not duly served on the applicant — STATE FACTS / the applicant was prevented by sufficient cause from appearing when the suit was called on for hearing, because ____].
3. That the applicant came to know of the ex parte decree on [DATE], when [____], and this application is filed within thirty days thereof [Article 123 of the Limitation Act, 1963]. [If delayed, file an application under Section 5 of the Limitation Act.]
4. That the applicant has a good defence on merits, as [BRIEFLY STATE], and will suffer irreparable loss if the decree is not set aside.
5. That the decree dated [] and preceding ex parte order dated [] are annexed. This application invokes Order IX Rule 13 against the decree; an application before decree would require the appropriate different provision.
6. That the service record shows [process, address, report and date]. [If challenging service: identify the defect and absence of timely notice; a mere irregularity is not relied on where actual notice and sufficient time existed.]
7. That [if relying on sufficient cause] on the hearing date [] the applicant was prevented from appearing by [specific circumstance], evidenced by [record]. Counsel's inability and the applicant's inability are separately explained where necessary.
8. That limitation under Article 123 is calculated from [decree date / legally available knowledge date for non-service], giving a last date of []. Actual knowledge was acquired on [] by [event and proof]; if delayed, a separate condonation application explains [period].
9. That any appeal against the decree, its disposal and the effect of the Explanation to Order IX Rule 13 are disclosed as []. Any execution stay requested is separately justified and is not assumed to follow from filing.
10. That [OPTIONAL: retain only after verifying the cited rule and these facts] the hearing-day impediment is proved by [record]. Applying G.P. Srivastava, it constitutes sufficient cause because [specific connection to inability to attend]; service, actual notice, limitation and subsequent diligence are independently addressed as pleaded.

PRAYER

It is, therefore, respectfully prayed that the ex parte decree dated [DATE] may kindly be set aside, the suit restored to its original number, and the applicant allowed to contest it. It is further prayed that execution of the decree may be stayed during the pendency of this application.

Place: [PLACE] Date: [DATE]

APPLICANT / DEFENDANT Through [NAME OF ADVOCATE] Advocate Enrolment No.
[]

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AFFIDAVIT

Affidavit of [NAME OF DEPONENT], [S/o / D/o / W/o] [NAME], aged about [____] years,
resident of [FULL ADDRESS WITH PIN CODE].

I, the above-named deponent, do hereby solemnly affirm and declare as under:

1. That the deponent is competent to swear this affidavit and the accompanying [suit /
petition / application] has been drafted by counsel on the deponent's instructions. Its
contents have been read over and explained in [LANGUAGE], understood by the
deponent, and are incorporated as part and parcel of this affidavit; the factual statements
are true to the deponent's knowledge or identified records, and legal submissions are
based on advice believed to be true.
2. That [no same or similar suit / petition / application on the same cause of action has been
filed / the following prior or pending proceedings, outcomes and orders are fully
disclosed: ____]. Nothing material has been concealed.

DEPONENT

VERIFICATION

Verified at [PLACE] on [DATE] that paragraphs 1 and 2 above are true and correct to my knowledge and
identified records, with legal submissions based on advice believed true. Nothing material has been concealed.

DEPONENT

Note: To be sworn before an Oath Commissioner / Notary Public and stamped as required by the applicable
rules.

PREPARATION AND JUDGMENT APPLICATION

Updated 11 October 2026. Complete every material fact, retain only supported alternatives, and renumber before filing. These notes support professional adaptation; they do not supply missing evidence or guarantee relief.

Filing and relief checks. Annex decree, relevant order sheets, service material and proof of the exact hearing-day impediment. Seek restoration to the appropriate stage and any necessary separate execution protection.

Fact-specific authority. *G.P. Srivastava v. R.K. Raizada*, (2000) 3 SCC 54; 3 March 2000. Support the sufficient cause that prevented attendance on the relevant hearing date. The decision assists a bona fide explanation; it does not excuse unexplained absence or supply missing evidence. Read the judgment

Source: <https://indiankanoon.org/doc/295872/>

Before relying on any authority, compare the material facts, procedural stage, statutory version and precise relief; check subsequent treatment and applicable local practice. Keep the authority note separate from the signed pleading. For criminal procedure, determine Section 531 BNSS savings rather than select the code solely from the alleged offence date.