

CS 53/25

Mrs. Abha Rathore Vs. Apoorva Gandhi

29.05.2025

Present: Ms. Jyoti Gulati, Id. Counsel for plaintiff.
Sh. D.K. Sharma, Id. for defendant no.2,4 and 5.
None for D1 & 3.

Reply to the application u/o 47 rule 1 r/w Section 151 CPC
is filed by D2,4 and 5. Copy supplied.

Arguments heard on the application.

Order on IA u/o 47 rule 1 r/w Section 151 CPC.

It is submitted that the Applicant/ Plaintiff is aggrieved of order dated 03.04.2025. The plaintiff has filed the present suit, inter alia seeking suit for recovery of possession, recovery of money and injunctions both permanent and mandatory. It is further submitted that on 20.02.2025, counsel on behalf of the defendant no.-2 appeared and submitted that the legible copies of documents along with documents were not supplied hence the legible copies of the documents were supplied to the counsel for defendant on his whatsapp number. It is further submitted that on 03.04.2025, Ms. Seema appeared on behalf of the defendant no.-2,4 and 5 and submits that she has been newly appointed and sought time to file Written Statement. The Hon'ble Court was pleased to grant one week time to file written statement on this ground. It is further submitted that vakalatnama filed on 03.04.2025 is of the counsel who has sent reply on 29.10.2024 to the legal notice sent by

.....1/5.....

.....2/5.....

plaintiff, who has appeared on behalf of Defendant no. 2, 4, and 5 on 20.02.2025 and to whom the legible copy of documents were supplied on 20.02.2025 however on 03.04.2025 the counsel appearing on behalf of defendant no. 2, 4, and 5 made a false submission before this Hon'ble Court that they are newly appointed counsel and sought one week time to file the written statement. It is further submitted that the applicant/ plaintiff very respectfully submits before this Hon'ble Court that the wrong submissions on behalf of the defendants before this Hon'ble Court on 03.04.2025 in the captioned matter was intentional and to misuse the legal process and delay the delivery of justice. It is also submitted that the applicant/ plaintiff has good case in their favor and against the defendants. The balance of convenience also lies in favor of the applicant/ plaintiff. If the application of the applicant is not allowed that the applicant would face irreparable loss. That the paramount consideration for the exercise of power must be to meet the ends of justice. It is further submitted that the applicant/ plaintiff in the above circumstances is preferring the present application seeking necessary orders and directions from this Hon'ble Court for recalling and modification of the order dated 03.04.2025 passed by this Hon'ble Court. No prejudice shall be caused to any of the party if the present application is allowed and the order dated 03.04.2025 is reviewed considering the present facts. Hence, the present application is filed.

Reply to the application has been filed by defendant. It is submitted that the plaintiff has filed the present suit for recovery of possession, recovery of money and permanent injunction on the said

.....3/5.....

plaint. It is further submitted that on 20.02.2025, Counsel for the defendant no.2 appeared through VC and submitted that the legible copies of the documents to be supplied by the plaintiff to prepare Written Statement on behalf of defendant no.2, the counsel for the plaintiff supplied the legible copies to the counsel for the defendant no.2. It is further submitted that on 03.04.2025, Proxy Counsel for the defendant no.2 has filed fresh vakalatnama on behalf of main counsel and sought time to file the written statement and this Hon'ble Court vide order dated 03.04.2025 granted the one week time to file the written statement. It is further submitted that from 10/04/2025 to 14/04/2025, due to holiday the written statement on behalf of defendant no.2 was filed through mail before this Hon'ble Court and the advance copy of the written statement was also supplied to the counsel for the plaintiff on her Mobile no. 9599204385 and it was duly acknowledged. It is also submitted that the Defendant no.2 filed a condonation of delay application for one day and reply to the said application was also filed by the plaintiff but the counsel for the plaintiff without any merits and reasons filed the present review application Under Order 47 Rule 1 R/W section 151 of CPC which has no base and authentication. It is also submitted that the ground taken by the Counsel for the plaintiff that the counsel who have replied the legal notice dated 29/10/2024 was aware of the present case but it is pertinent to mention here that the counsel who replied to the legal notice is not to make that he will be the counsel in the present suit which was filed subsequently. It is further submitted that order dated 03/04/2025 is a self-explained order which cannot be reviewed. It is further submitted

.....4/5.....

that the counsel for the defendant no.2 who has filed the vakalatnama on 03/04/2025 and sought the time to file the written statement did not make wrong submission before this Hon'ble Court and there was no intention to misuse the legal process whereas plaintiff for her own act trying to misuse the legal process and the delivery of justice. Defendant further submits that the present application be dismissed.

Arguments heard. Record perused. Considered.

Perusal of record shows that vide order dated 03.04.2025, Id. Counsel for defendant seeks some more time to file WS as she has been recently engaged in the matter. In the interest of justice, one week time was given to defendant to file written statement. The contention of plaintiff is that Ld. Counsel for defendant on 03.04.2025 has made wrong submissions and misuse the process of law. As regards to this plea, it is clear from the record that the counsel of defendant filed his V/nama on 03.04.2025, however, it is true that he appeared before this court on behalf of defendant no.2, 4 and 5 on 20.02.2025 and requested for legible copies and he was the only advocate who was supplied with legible document by the plaintiff. The only grievance of plaintiff in the present application is that the counsel for defendant who appeared before this court on 03.04.2025 made wrong submissions that she has been recently engaged in the present matter. This court recorded the submissions as it was made by the Id. Counsel for defendant. There is no error apparent on the face of record in granting one week time to defendant to file written statement. It is pertinent to mention here that the plaintiff has not given

.....5/5.....

any reasonable explanation in the present review application to recall the order dated 03.04.2025. Hence, this court does not find any merit in the submissions of review application and same is dismissed.

Put up for competition of pleading, admission & denial of documents and framing of issues on 17.07.2025.

(Pooja Jain)
District Judge-03/NB
East/KKD Courts/Delhi
29.05.2025