

CS279/22

GAUTAM SINGH Vs. CLYDE BERGEMANN INDIA PRIVATE
LIMITED AND OTHERS

23.12.2024

Present: Shri V.K. Yadav, L.d p;roxy counsel for plaintiff a/w
plaintiff.
ms. Kriti Soni, ld. Counsel for D1 & 3.
Defendant no.2 is already deleted from the array of parties.

Arguments heard on application u/o 8 rule 1 A CPC.

Order on IA u/o 8 rule 1 A CPC.

It is submitted that defendant no.1 is seeking leave of this court for permission to rely upon the following documents:

- a) Document no.1- Employee Handbook given to the plaintiff at the time of employment. The Employee Handbook sets out the terms and conditions of employment as on the date of employment.
- b) Document no.2- Employee Handbook operational as on the date of termination of employment of the petitioner.

It is further submitted that above mentioned documents that are sought to be placed on record are material to the case of the defendant no.1 and its submission has been necessitated by the statement of the plaintiff recorded at the time of cross examination on 05.08.2024. It is further submitted that document no. 1 being the employee hand book was shown to the plaintiff on the day of cross-examination and has been admitted to be given to all employees of the defendant no.1 at the time of appointment. It is further submitted that above said documents are highly relevant for the issues in the present case. It is further submitted that no harm or prejudice will be caused to the plaintiff in case the documents are permitted to be brought on record. It is therefore requested that present application be allowed.

Reply to the application has been filed by the defendant. It is

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submitted that present application is an abuse of the process of law and defendant has filed the written statement with fabricated and forged documents to create a false defense against the plaintiff. It is further submitted that defendant should have filed the above said documents with the written statement and it is not the stage of filing the same. It is further submitted that defendant has filed the present application just to linger the present matter. Therefore, Id. Counsel is requested that present application be dismissed.

Heard. Record perused and considered.

The Hon'ble Supreme Court in **Sugandhi (dead) by LRs and Another Vs. P. Raj Kumar (2020) 10 SCC 706** has held as under:

- .Sub-rule (3), as quoted above, provides a second opportunity to the defendant to produce the documents in the court which ought to have been produced in the court along with the written statement, with the leave of the court. The discretion conferred upon the court to grant such leave is to be exercised judiciously. While there is no straitjacket formula, this leave can be granted by the court on a good cause being shown by the defendant.
- . It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out

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the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under sub-rule (3).

Perusal of plaint reveals that plaintiff is seeking decree declaring that the communication dated 10.01.2022 is in contravention with the terms of service agreement. As per appointment letter i.e. Ex. PW1/MarkA in clause 12 in the last line it is mentioned that “ you will be governed by the rules and regulation of the company as notified from time to time and as specified in the employee hand book. The company shall have the right to amend or modify any of the terms and conditions of service which shall be binding on you”. Hence, it is clear that the plaintiff is relying upon the employee hand book which he has not placed on record. By way of present application, the defendant is seeking permission to place on record the employee hand book. As per the arguments advanced by ld. Counsel for plaintiff the said employee hand book which the defendant is placed on record is not the same which is mentioned in the appointment letter of plaintiff. In these circumstances, it is incumbent upon the plaintiff to place on record the employee hand book which is mentioned in his appointment letter. However, the defendant may rely upon the employee hand book which is admitted by PW-1 during his cross examination on 05.08.2024. Matter has been filed in the year 2022. Issues were framed in the matter and the matter is at the stage of DE. Plaintiff examined PW-1 and closed his PE on 05.08.2024. Defendant’s evidence is yet to be recorded. If the plaintiff has any grievance in filing of the above said documents then he has ample opportunities to cross examine the defendant during the evidence to rebut the relevancy of these documents. Applying the pertinent observation of Hon'ble Supreme Court in Sugandhi (supra) to the

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case in hand, this court is of the view that without prejudice to the rights and contentions of the parties, these documents can be taken on record. Considering the submissions made, in view of ruling cited above as well as facts and circumstances of the case, the application is being disposed off with the following order:

ORDER

The application u/o 8 rule 1 A r/w 151 CPC by the defendant is allowed. The documents as mentioned in the application i.e. copy of employee hand book as published in October 2007 and copy of employee hand book as published in 2020 are taken on record.

Put up for DE on 15.01.2025.

(Pooja Jain)
District Judge-03/NB
East/KKD Courts/Delhi
23.12.2024