

GANGA KAVERY CONSTRUCTION PRIVATE LTD Vs. SRC
REALTORS PRIVATE LIMITED

14.10.2024

Present: Sh. Prashant Kumar alongwith Sh. Satish Gulati Ld.

Counsels for plaintiff.

Ld. Counsel for defendant.

Written statement alongwith an application u/o 8 Rule 1
CPC filed. Copy supplied.

It is submitted by Ld. Counsel for plaintiff that the written statement alongwith application u/o 8 Rule 1 of CPC filed today is supported with a defective affidavit in violation of Companies Act Section 21 r/w Sec. 2 (51) & (59) of Companies Act 2013. Sh. Purshottam Kumar Chaubey whose affidavit is filed with written statement and application has not filed any authority letter and also not mentioned his designation in the affidavit.

Per contra, It is submitted by Ld. Counsel for defendant that Sh. Purshottam Kr. Chaubey whose affidavit is attached with the written statement and application is an authorized representative of the defendant company however, due to inadvertent mistake, the authority letter of the said person could not be filed and he will file the authority letter and fresh affidavit in support of written statement. It is further submitted that Sec. 21 says that the documents mentioned in section 21 *may* be signed by any key managerial personal or an officer of the company duly

authorized by the board. However, there is no bar to file any document by any other person in the whole Act.

Ld. Counsel for defendant further relies upon Sec. 2 (69) sub-clause b & c CPC i.e. definition of promotor and also refers para 23 of his written statement wherein it is mentioned that Sh. Purshottam Kr. Chaubey is the promotor of defendant company and the affidavit filed by him non mentioning his designation is only a curable defect.

Ld. Counsel for defendant further seeks time to file fresh affidavit and authority letter on behalf of the company in favour of Sh. Purshottam Kumar Chaubey.

In response to this Ld. Counsel for plaintiff submits that filing of any document and affidavit by unauthorized person is not an irregularity but illegality and cannot be cured. It is further submitted that written statement filed by defendant no.1 & 2 be not taken on record.

In view of the submissions made by both the counsels and keeping in mind that defect in affidavit is a curable defect, the defendant is given one week time to cure the above-said defect.

Put up for filing fresh affidavit and authority letter on behalf of defendant/arguments on the application under Order 8 Rule 1 and under Order 39 Rule 1 & 2 CPC on 25.10.2024.

(Pooja Jain)
District Judge-03/NB
East/KKD Courts/Delhi
14.10.2024