

CS No. 57564/16

Archana Sharma Vs. Lalitendu Samanta

22.09.2018

Present: Plaintiff in person.
Ld. Counsel for defendant no.1.
Shri B K Tomar, Ld. Proxy counsel for defendant no.2.
Shri Saket Singh, Ld. Counsel for defendant no.3.
Shri Krishanu Adhikary and Ms. Surabhi Diwan, Ld. Counsel for defendant no.4.

While hearing the application under Order 11 Rule 14 CPC in the ordersheet dated 23.07.2018, it was mentioned by ld. counsel for defendant no.4 that they had already given complete record to defendant no.3. Clarifications were sought from defendant no.3. Today counsel for defendant no.3 Shri Saket Singh submitted in the Court that whatever documents were available with defendant no.3 i.e. GMR Delhi International Airport, have already being filed by them along with due affidavit. They are not in possession of any other document pertaining to the said enquiry. It is submitted by him that the CD is also filed on record.

Today Ld. counsel for defendant no.1 has filed on record copy of the Airtel Bill statement from July 2011 to December, 2011. Copy also supplied to the plaintiff.

Arguments heard on the application under Section 151 CPC filed by the plaintiff for sending the audio clips to CFSL.

It is the case of plaintiff that she has already filed the original CD along with transcript and translation on record which is already exhibited

during her examination in chief. She seeks liberty of this Court to get it examined through CFSL or through private examiner.

It is submitted by Id. counsel for defendant no.3 that since plaintiff has not filed evidence affidavit under Section 65 B, hence the audio tapes cannot be permitted to be sent for examination.

However, the evidence of plaintiff is still going on and at this stage no concrete observation can be given regarding the admissibility of audio recordings. Plaintiff might take appropriate action as she has already submitted in Court that she wishes to place certificate of Section 65 B as per law.

In the circumstances, when evidence is going on, I deem it to appropriate to allow this application. Plaintiff is permitted to examine the audio clips by private examiner. Application accordingly disposed off.

Arguments heard on application under Section 151 CPC requesting that since objections were made by defendants regarding the mode of transfer of data from her mobile to CD and it was also objected on the ground that the same is not supported by certificate of 65 B, hence her mobile phone be sent to CFSL. However, it is permitted to her that she may get the same examined through private examiner and file the report of private examiner on record. Hence, the present application is disposed off accordingly.

Arguments heard on the application filed under Order 11 Rule 14 read with Section 151 CPC seeking production of documents by defendant no.2.

It is the case of plaintiff that as is mentioned in Clause 1 and Clause 7 of her application that she is seeking production of attendance

record/portal from August, 2011 to July, 2011 pertaining to plaintiff, defendant no.1 and 2. As it is a case of plaintiff that she was harassed on some particular dates and was forced to stay at office after office hours, hence, they are necessary to prove her case and it is only defendant no.3 who are in possession of these documents and these documents are essential to corroborate her case.

Heard. Gone through the record.

It is objected to by Id. counsel for defendant no.3 that plaintiff has not mentioned specifically that these documents are required and that they are in possession of defendant no.3. However, pleadings need only contain the facts and not the mode of proof of the facts or the evidence needed to prove those facts.

I am convinced with the submissions made by her. Request is allowed. In view of specific averments on record regarding the same.

As far as documents mentioned in Clauses (ii) and (iii) of her application are concerned, in her previous applications she has already sought summoning of these documents and it is stated by Id. counsel for defendant no.3 that they have already filed on record complete record of the proceedings of the enquiry of the Committee along with original audio and video clippings. Hence, this being repetition is hereby declined.

Plaintiff has also sought production of annual appraisal report of plaintiff for the year 2008 to 2011 thereby submitting that when she declined the request of defendant no.1, her appraisal was degraded and it is necessary to corroborate her case. Request is allowed as the same is mentioned in pleadings.

Further she has also sought production of transfer policy of

defendant no.3 along with standing orders of defendant no.3 regarding sexual harassment also. It is the case of plaintiff that since it is her case that she was illegally transferred hence she seeks production of transfer policy and also is seeking production of standing orders regarding the procedure to be adopted in complaints of sexual harassment. I am convinced with her arguments. Hence, request is allowed.

As far as production of documents mentioned in Clause (viii) of her application is concerned, she has referred to paragraph 23 of her plaint wherein there are specific facts regarding her attendance being taken by defendant no.2. In view of these specific facts, application is allowed.

Defendant no.3 is directed to file documents on record before next date of hearing.

Arguments heard on the applications bearing nos. 21576 and 21157 filed by plaintiff on record. By way of these two applications, she seeks to place certain emails exchanged between plaintiff and various defendants. It is specifically mentioned in her application that plaintiff had handed over the entire set of documents to her earlier counsel but when she inspected the Court file, it came to her knowledge that her counsel had not filed the emails on record pursuant to which she discharged her earlier counsel and moved these applications.

It is further submitted by her that matter is at the stage of plaintiff's evidence. Further these emails were already in the knowledge of defendants as well, as these emails were exchanged with the defendants.

It is objected to by Ld. Counsel for defendant no.3 on the ground that these documents were already in her possession and knowledge at the time of filing list of documents but she had not filed the same on record and

these applications were filed at a later stage.

Heard. Gone through the record.

These applications were filed in October 2015. However, the ground taken by her that she had handed over the entire set of documents to her earlier counsel but when she inspected the Court file, it came to her knowledge that her counsel had not filed the emails on record pursuant to which she discharged her seems genuine. Moreover, defendants are already in possession and knowledge of these documents so this is not a new document which is coming to their knowledge for first time in the sense that it was already in the knowledge of defendants as it was exchanged with the defendants. In the circumstances, I hereby allow this application. Emails are permitted to be proved on record along with Section 65 B of Evidence Act.

It is submitted by plaintiff that all her applications are disposed off.

The earlier LC Shri P K Saxena, Retired ADJ has already recused in all the matters given to him for evidence.

Plaintiff submits that she seeks to appoint one DLSA counsel in this case.

Put up for further proceedings and appointment of new LC for
02.11.2018.

(TWINKLE WADHWA)
ADJ-03/PHC/NEW DELHI
22.09.2018

