

**IN THE COURT OF MS. ANJU BAJAJ CHANDNA
PRINCIPAL DISTRICT & SESSIONS JUDGE
NEW DELHI DISTRICT : PATIALA HOUSE COURTS :
NEW DELHI**

RCT No. 05/2024

Arun Kumar Gupta

...Appellant

Versus

Sir Sobha Singh & Sons Pvt. Ltd.

...Respondent

Appearance:

Sh. H. S. Sharma, Ld. Counsel for appellant.
Sh. Anand Singh and Ms. Nancy Sharma, Ld.
Counsels for respondent.

ORDER :

1. By this order, court shall decide the application under Order XLI Rule 27 CPC read with Section 151 CPC moved on behalf of appellant.

2. In brief, it is stated that respondent had filed the eviction petition before the court of Rent Controller through its Director/ Principal Officer/ Authorised Representative. Respondent is company registered and incorporated under the Company Act having its registered office at 1-A, Janpath New Delhi. Affidavit of S. Preminder Singh was also filed along with the petition, claiming that he was the Director of the respondent company and same is evident from the alleged notices sent on

behalf of respondent. Sardar Preminder Singh appeared as PW-1 and exhibited the copy of board resolution as Ex.PW1/1, despite knowing that he was not the director of the respondent company, on the date of issuance of alleged notices, institution of eviction petition and the date on which he appeared as PW-1. He made false statements that he was the Director of the respondent company and was duly authorised. This particular issue had been specifically raised by the appellant in the grounds of appeal.

3. It is stated that law in this regard is well settled that whatever may be the nature of claim, the failure of the plaintiff to prove the authority of the person verifying the pleadings and deposing before the court, is fatal.

4. Sardar Preminder Singh was concealing material facts and was not disclosing to the court that he had already resigned from the respondent company and was therefore no authority to act on behalf of respondent company. This is a material fact which goes to the root of the matter in view of Order XXIX Rule 1 CPC. The evidence, so far as the authority of Sardar Preminder Singh is concerned, produced by the respondent is incomplete in material particulars, therefore, the respondent cannot be permitted to take benefit of its own wrong by taking sham plea. Sardar Preminder Singh appears to have been appointed as director in the respondent company on 23.08.2006 and he ceased to be a director on 11.04.2007.

5. The respondent is having number of companies having the same name “Sir Sobha Singh and Sons Pvt. Ltd. and in some of the companies Sardar Preminder Singh is described as Additional Director. The respondent, now cannot be permitted to pick a particular company of this very name and then to claim that Sardar Preminder Singh was the director of that particular company which had initiated the process of eviction. The applicant / appellant recently , after checking the record of Registrar of Companies, came to know about this fact.

6. The document /evidence which the appellant is required to be brought is very material. It could not have been collected earlier as the applicant was not aware. The piece of evidence should have been produced before the court of Rent Controller by the respondent to clarify its stand and to enable the Rent Controller to pronounce the judgment.

7. It is contended that the document downloaded from the authentic site show that Sardar Preminder Singh had joined the company as director in the year 2006 and had resigned as Director w.e.f 11.04.2007. He did not have authority to depose on behalf of the respondent on the date of his deposition, to issue notice or to file eviction petition. The production of Annexure A/1 (form 32) and its retention of the appeal file does not require leading of any evidence. Applicant / appellant may be allowed to

produce the copy of Form-32 of the respondent company and its retention on the appeal.

8. Reply to the said application is filed on behalf of respondent stating that application is misconceived and has been filed with half-baked information / records in respect to the respondent company. The respondent filed copy of extracts of Board Resolution dated 22.11.2014 in favour of Sardar Preminder Singh to establish valid institution of the eviction case. In any case, Sardar Preminder Singh although resigned as a Director in the year 2007 , in August 2010, he became Additional Director of respondent company and the same was recorded in the records of ROC after making payment to record such information in Form -32. With effect from 04.09.2010, Sardar Preminder Singh became a Director and continues to be one of the Directors of the respondent company uninterrupted for the last 15 years, till date. Vide resolution dated 18.10.2022, even otherwise all the legal actions already initiated by Preminder Singh on the basis of Resolution dated 22.11.2014 have been ratified.

9. The entire eviction proceedings were pursued by the petitioner company through Preminder Singh, who has also signed Vakalatnama for the present appeal. The application is liable to be dismissed since it does not fall on / set out any of the grounds envisaged under Order XLI Rule 27 CPC for permitting

additional evidence. The only prayer made in the application is for production of Form 32 of the respondent company, which cannot be permitted, without permitting to the respondent company to further furnish documents submitted which imply that there would be virtually re-opening of evidence which is not permissible by invoking the provision of Order XLI Rule 27 CPC. On merits, respondent has denied the contentions of the applicant. It is stated that there is only one company bearing the name of 'Sir Sobha Singh and Sons Pvt. Ltd incorporated in 1945 and no other company of the same or similar name exists. It is prayed that the application be dismissed.

10. I have heard contentions of both the sides and examined the material available on record.

11. Order XLI Rule 27 CPC reads as under:-

27. Production of Additional Evidence in Appellate Court.

(1) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court, But if-

(a) the Court from whose decree the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(aa) the party seeking to produce additional evidence,

establishes that notwithstanding the exercise of due diligence, such evidence was not within his knowledge or could not, after the exercise of due diligence, be produced by him at the time when the decree appealed against was passed, or

(b) the Appellate Court requires any document to be produced or any witness to be examined to enable it to pronounce judgment, or for any other substantial cause, the Appellate Court may allow such evidence or document to be produced, or witness to be examined.

(2) Wherever additional evidence is allowed to be produced by an Appellate Court, the Court shall record the reason for its admission.

12. The present appeal has been filed by the appellant Arun Kumar Gupta against the order of Ld. SCJ-cum-RC dated 17.09.2024 whereby appellant was evicted under Section 14 (1) (k) of DRC Act. The main grievance of the applicant / appellant is that the authorised representative of the respondent company namely Preminder Singh was not the director at the time of filing of eviction petition, on the date of issuance of notices in the eviction petition and at the time of deposing as witness (PW-1) in the above said eviction petition. By this application, Ld. Counsel for applicant seeks permission of the court for production of copy of Form-32 of the respondent company. Copy of form-32 has been placed on record along with the application wherein it is mentioned that Preminder Singh had resigned from the company

on 11.04.2007. Counsel for respondent has also filed copy of another Form -32 along with its reply. As per copy of Form-32 filed by respondent, Preminder Singh joined the respondent company as Additional Director within the category independent on 12.08.2010 and thereafter as Director on 04.09.2010. The said forms are annexed with the copy of challans of Ministry of Corporate whereby fees of e-filing of form-32 had been deposited with Punjab National Bank.

13. On consideration of nature of facts and circumstances, I am of the opinion that application moved by the appellant has no justification and filed only to delay the proceedings of present appeal. The authority and competency of witness (PW1) is sought to be challenged and for this purpose, the application is moved. There is no explanation as to why the point was not raised during the recording of evidence before the trial court. Even otherwise, Preminder Singh resigned in the year 2007 and re-joined the company as Additional Director on 12.08.2010 and thereafter as Director on 04.09.2010. The eviction petition was filed before the trial court on 18.10.2019 much after Preminder Singh joined the company as Director and board resolution has been proved as Ex.PW1/1 showing authorisation of Preminder Singh. The issue raised by the appellant / applicant is misconceived as resignation of Preminder Singh would not affect the filing of eviction petition as well as the present appeal which was filed much later in time and even the actions initiated by Preminder Singh have been ratified vide resolution dated

22.11.2014. There is no reason to allow the additional evidence to be led in the present proceedings. The issue is only technical and procedural in nature and can very well be decided in the present proceedings on the basis of material available on record.

14. In view of above observations, present application is dismissed.

(Anju Bajaj Chandna)
Principal District & Sessions Judge
New Delhi District, Patiala House Courts
New Delhi/17.12.2025