

21.05.2024

Present : Mr. Aditya Vikram, Ld. Counsel for the plaintiff  
through video conferencing.  
Mr. Ayushman Sharma, Ld. Proxy Counsel for the  
plaintiff.  
Ms. Shefali Kishore, Mr. Nischay Kapoor and Ms.  
Shruti Gupta, Ld. Counsels for the defendant.

The application of the plaintiff under Order 7 Rule  
14 (3) read with Section 151 of CPC is taken up for  
consideration.

By this application, the plaintiff seeks to bring on  
record certain documents. It is stated in the application that the  
necessity of bringing on record these documents arose in view of  
certain questions put to the plaintiff during cross-examination.

On the last date of hearing, Ld. Counsel for the  
plaintiff was requested to point out the relevant portions of the  
testimony of the plaintiff which made it necessary for the  
plaintiff to file the documents in question.

Today, Ld. Counsel for the plaintiff has drawn the  
attention of the Court to certain portions of testimony of the  
plaintiff dated 18.11.2023 and 27.09.2023 and has submitted that  
in view of the questions asked from the plaintiff during her cross-  
examination, a need arose to place on record the documents in  
question.

Reply to the application has not been filed.

Contd...2/-

However, written submissions have been filed by the defendant. Ld. Counsel for the defendant has argued that the questions put to the plaintiff during her cross-examination which the counsel for the plaintiff has referred to today has nothing to do with the documents which the plaintiff now wishes to bring on record. She submits that the defence has been known to the plaintiff ever since written statement was filed. She states that the documents are being filed belatedly and cannot be taken on record.

Arguments have been heard and the record have been perused.

The suit has been filed by the plaintiff for seeking possession, arrears of rent, mesne profit and injunction against the defendant on the basis of the averment that the defendant is a tenant of the plaintiff in the premises in question.

It is stated in the plaint that the property was purchased by the plaintiff from the defendant.

In the written statement, the defendant denied the ownership of the plaintiff and the averment that the defendant has sold it to the plaintiff. It is stated that the defendant is the owner of the property. The defendant has stated that the documents on the basis of which the plaintiff is claiming possession are actually documents of a loan transaction which has been misused by the plaintiff.

The documents which the plaintiff seeks to bring on record are agreement to sell, receipts and letters issued by the defendant. The plaintiff also wants to bring on record the property tax receipts. These documents would assist the plaintiff in establishing that she indeed bought the property from the

defendant and has been paying house tax for the property.

These documents became relevant the moment the defendant filed her written statement and took the defence that the property was never sold by her to the plaintiff. The plaintiff chose not to file the documents along with the replication. There is nothing new which came out in the testimony of the plaintiff because of which it became important for the plaintiff to file the documents in question. As such, it is evident that the plaintiff has come to the Court belatedly for bringing on record the documents.

Even though no cogent explanation has been furnished for the delay in filing of documents, this Court is of the opinion that efforts should be made for deciding cases on merits after taking into consideration all the evidence that the parties wish to rely upon.

In the case of Kusum Vs. Kanchan Devi AIR 2005 SC 3304, the Hon'ble Supreme Court held that while justice delayed may amount to justice denied, justice hurried may in some cases amount to justice buried. Following was also held by the Hon'ble Supreme Court:

*“6. All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation.”*

In the case of *Desh Raj Vs. Bal Kishan* AIR 2020 SC 621, the Hon'ble Supreme Court held that there was no justification for not filing the written statement within the prescribed time period. It expressed its inclination to dismiss the appeal. However, it took a lenient view and took the written statement on record subject to payment of cost of Rs.25,000/-.

For the delay in filing of documents, the defendant can be compensated in monetary terms. Since the defendant will have an opportunity to cross-examine PW-2 with regard to the documents and since the defendant is yet to lead evidence, no prejudice will be caused to the defendant if the documents are taken on record at this stage.

However, in case the plaintiff is not permitted to place on record the documents in question, the plaintiff may suffer irreparable injury since she will be barred from relying upon relevant evidence.

In view of the above facts and circumstances, the application of the plaintiff under Order 7 Rule 14 (3) read with Section 151 of CPC is allowed subject to cost of Rs. 25,000/- to be paid by the plaintiff to the defendant.

Subject to payment of cost, the documents will be taken on record.

Two demand drafts bearing no. 513209 and 513210 dated 18.05.2024 in the sum of Rs. 75,000/- and Rs. 25,000/- respectively drawn on ICICI Bank, Naraina, Delhi are handed over by Ld. Counsel for the defendant to Ld. Proxy Counsel for the plaintiff.

The application of the plaintiff under Order 16 Rule

Contd...5/-

2 of CPC for summoning of official is allowed. On filing of process fee by the plaintiff, let the official stated in the application be summoned for his appearance along with the relevant record before the Local Commissioner in the Judges' Library, Patiala House Courts on 10.07.2024 at 3 p.m. Diet money be paid on the spot.

Two applications under Order 39 Rule 10 of CPC and under Section 151 of CPC for seeking civil contempt reference have been filed by the plaintiff. Copies have already been supplied.

Ld. Counsel for the defendant seeks time to file reply to the applications.

Let copy of the reply to the applications be supplied to Ld. Counsel for the plaintiff at least 15 days prior to the next date of hearing.

To come up for arguments on the pending applications on 13.12.2024.

Copy of this order be given dasti to Ld. Counsel for the parties so that they can bring it to the notice of the Local Commissioner.

(Shirish Aggarwal)  
District Judge-03  
Patiala House Courts, New Delhi  
21.05.2024