

16.07.2019

Present : None for the parties.

Case file is perused.

An application under Order VII Rule 14 r/w Sec. 151 CPC has been filed, on behalf of the plaintiff, on 11.02.2019, for filing the photocopies of the rent receipts, on record.

2. It has been stated in the application that the applicant is the widow and legal heir of deceased plaintiff Sh. Raghunath Singh and after the death of the plaintiff, the applicant is pursuing the present case and she came to know that the defendants have been collecting the rents from the various tenants, in respect of the various suit properties and have been keeping the original rent receipts for the years 1979, 1981, 1982, 1983, 1997 to 2001 and 2003, in their possession.

3. It is further stated in the application that recently on 06.02.2019, the applicant found photocopies of some rent receipts for the aforesaid years, which were kept inside a locked box of the late husband of the applicant and hence, the present application.

4. It has been prayed that the rent receipts are very material and relevant for the proper adjudication of the case and the applicant crave leave of the court to place and reply upon the above mentioned rent receipts and therefore, the photocopies of the documents be taken on judicial record.

5. Reply to this application has been filed, on behalf of the defendants No.1, 6 & 7, wherein, it has been stated that the applicant has not specified, as to which defendant is collecting the rent and no rent was ever collected by defendants No.1, 6 & 7. It is further stated that the defendants No.2 to 5 were collecting the rents from the tenants and they had not shared the rent with the plaintiff and defendant No.1, 6 & 7. It is

further stated that defendant No.1, 6 & 7 are having no objection, in case, the rent receipts are placed on record.

6. No reply to the present application has been filed, on behalf of the remaining defendants, despite opportunity.

7. Arguments on the present application were addressed by Sh.A.K. Mishra, Advocate, for the plaintiff, Sh. Pradeep Sharma, Advocate, for defendant No.1, 6 & 7 and Sh.Umesh Kapoor, Advocate, for defendant No.2 to 5, on 26.04.2019. Even on 26.04.2019, the Ld. counsel for defendant No.2 to 5 was granted an opportunity to file the written reply to the said application. But, the same has not been filed, till date.

8. Perusal of the record shows that the present suit was instituted, on behalf of the deceased plaintiff, for partition, possession, rendition of account and permanent injunction, before the Hon'ble High Court of Delhi, on 21.08.2009 and vide orders dated 28.11.2014, the parties were directed to file their original documents within two weeks.

9. It is further observed that during the pendency of the suit, it was informed by the Ld. Counsel for the plaintiff, on 30.10.2015, that the plaintiff had expired and thereafter, an application under Order XXII Rule 3 CPC was filed for impleading the LRs of deceased plaintiff, on 09.12.2015.

10. Perusal of the record further shows that vide orders dated 11.01.2016, the present suit was transferred to the court of the Ld. District & Sessions Judge (NE), Karkardooma Courts, Delhi, in compliance of the notification bearing No.27187/DHC/Orgl. dated 24.11.2015 and thereafter, the present suit was received in the court of the Ld. Predecessor of this court on 21.03.2016.

11. Vide orders dated 24.05.2016, issues were framed by the Ld. Predecessor of this court and the matter was listed for evidence of the plaintiff on 27.07.2016 and thereafter, the matter was adjourned from time

to time and on 17.02.2017, the affidavit of PW-1 Sanju Devi was filed and was tendered in evidence. Her further examination was deferred for 26.05.2017, on the request of the Ld. Counsel for the plaintiff and thereafter, the matter was adjourned for several dates of hearing and vide orders dated 07.09.2017, the opportunity to the defendant for cross-examination of PW-1 was closed and the matter was adjourned for entire remaining plaintiff's evidence on 07.10.2017. On 07.10.2017, no other witness was present, on behalf of the plaintiff and therefore, the plaintiff's evidence was closed.

12. On 24.11.2017, the affidavits of defendants No.1, 6 & 7 were filed and thereafter, an application under Order XVIII Rule 17 r/w Sec. 151 was moved on behalf of the defendants No.2 to 5 and on the request of the parties, the matter was adjourned for 03.04.2018. Vide order dated 02.07.2018, the application of the defendant No.2 to 5, under Order XVIII Rule 17 r/w Sec.151 CPC and a separate application of defendant No.8 under Order XVIII Rule 17 & 4 r/w Order XIX Rule 2 r/w Sec. 151 CPC, dated 07.10.2017 were dismissed as withdrawn.

13. Vide orders dated 02.07.2018, the matter was adjourned for 13.09.2018 for arguments on the application of the plaintiff under Order XL Rule 1 r/w Sec. 151 CPC, dated 15.03.2018. Thereafter, it was reported that some talks of compromise are going on and therefore, the matter was adjourned for recording of the settlement and for arguments on the pending miscellaneous application on 27.09.2018. On the request of the parties, the matter was again adjourned for the same purpose for 17.11.2018, 24.11.2018, 07.01.2019 and 11.02.2019. On 11.02.2019, the present application under Order VII Rule 14 r/w Sec. 151 CPC has been filed, on behalf of the plaintiff.

14. Perusal of the record shows that the evidence of the plaintiff had already been closed vide orders dated 07.09.2017. It also appears

that the plaintiff has failed to comply the previous orders dated 24.11.2014, regarding filing of the original documents within two weeks and subsequent orders for filing the documents, till the date of framing of issues on 24.05.2016. Even thereafter, the plaintiff has failed to place the original documents on record and now, only the photocopies of some rent receipts are being attached with the present application, seeking leave of the court for filing the same on record.

15. Perusal of the record further shows that the plaintiff has not mentioned the name of any defendants, who is in possession of the original rent receipts, either in the plaint or in her affidavit Ex.PW1/1. Furthermore, the contents of the present application also does not disclose any reasonable or sufficient ground for condonation of delay in filing the photocopies of the aforesaid rent receipt on record, at this belated stage.

16. It appears that the LRs of the deceased plaintiff have failed to pursue the present suit diligently and therefore, the LRs of the deceased plaintiff cannot be permitted to take benefit of their own lapses, at this belated stage. They cannot be permitted to fill up the lacunae in their case, at this belated stage. Therefore, I do not find any merit in the present application and the same is hereby dismissed, subject to imposition of a cost of Rs.3,000/- on the applicant/plaintiff. The application under Order VII Rule 14 r/w Sec. 151 CPC dated 11.02.2019 is disposed of accordingly.

It is ordered accordingly.

Adjourned for payment of cost by the plaintiff and for further proceedings on **08.08.2019**.

BRIJESH KUMAR GARG
Addl.Distt Judge(NE)-01
KKD Courts/Delhi
16.07.2019