

**Narinder Singh  
Vs.  
Satish Goel & Ors.**

**23.05.2022**

Present: Dr. Anil Kumar Gupta, Ld. Counsel for the counter claimant/plaintiff.

Non-counter claimant no. 2/defendant no. 2 in person who is also an advocate.

None for non-counter claimant no. 1/defendant no. 1 in person.

Non-counter claimant no. 2/ defendant no. 2 has placed on record evidence by way of affidavit alongwith a bunch of documents. Ld. Counsel for the counter claimant/ plaintiff has strongly opposed the attempt of defendant no. 2 to place on record certain documents not part of the original judicial file.

Ld. Counsel for the counter-claimant/ plaintiff has the following objections:

1. Ex. DW1/2, Ex. DW1/3 and Ex. DW1/4 being not on official file and produced by the non-counter claimant no. 2 after completion of proceedings and after settlement of issue and after closer of all plaintiff's/ counter-claimant's evidence.

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2. Some of the documents which are marked as Mark DW1/5, Mark DW1/6, Mark DW1/7 and Mark DW1/8 have already been exhibited in plaintiff's evidence/ counter-claimant's evidence, however, some of the documents freshly produced by the non-counter claimant at this stage. (GPA is already exhibited the Will as well as some notarized documents i.e. Sale Receipt, Possession Letter and Affidavit are produced herein for first time). The same are being not on official file and produced by the non-counter claimant no. 2 after completion of proceedings and after settlement of issue and after closer of all plaintiff's/ counter-claimant's evidence.

Defendant no. 2 submits that he has received the aforementioned documents during the police investigation/ arguments on bail application in FIR No. 49/2017 under Section 420/448/467/471/34 & 120 B IPC which is alleged to be filed by the son of plaintiff/ counter-claimant.

In the interest of justice as well as for comprehensive adjudication of the present suit, the present documents are allowed to be taken on record. Procedure and technical hurdle should not be

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allowed to the way of the Court while doing substantial justice. In the case titled as “***Sugandhi (dead) by LRs and Anr. Vs. P. Rajkumar***” (2020) 10 SCC 746 it was *interalia* held as under:

*“8. Sub-rule(3), as quoted above, provides a second opportunity to the defendant to produce the documents which ought to have been produced in the court alongwith the written statement, with the leave of the court. The discretion conferred upon the court to grant such leave is to be exercised judiciously. While there is no straitjacket formula, this leave can be granted by the court on a good cause being shown by the defendant.*

*9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is*

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*nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under sub-rule (3).”*

In the present case, this Court is of the considered view that no prejudice will be caused to the plaintiff, in case, such documents are taken on record. The plaintiffs were already aware about the existence of such documents and they were in the custody of the plaintiff. The plaintiffs have not produced the same before this court for the reasons best known to them. Now, when defendant no. 2 became aware of these documents during the police investigation, in the interest of justice, he should not be disallowed to place those documents on record.

The submission of the Ld. Counsel for counter-claimant/ plaintiff that PW-1 has already been examined and cross-examined does not come in the way of defendant no. 2 to place these documents on record. The cross-examination is done on the basis of examination in chief of the witness and the plaintiff admittedly has not produced

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these documents which were in his custody and possession. This leads to an inference that probably these documents were not supporting the case of the plaintiff and therefore, they were not placed on record. Ld. Counsel for the counter-claimant/ plaintiff will get an opportunity to cross-examine the defendant no. 2 on these documents. Therefore, the documents are allowed to be taken on record.

Put up for DE before the Local Commissioner on **02.06.2022**. Local Commissioner be informed accordingly.

Put up for submission of report of LC/final arguments on **04.08.2022**.

**Shivali Bansal**  
**ADJ-03, Rohini Courts**  
**North District, Delhi**  
**23.05.2022**