

**IN THE COURT OF MS. NEELAM SINGH, ADDITIONAL DISTRICT
JUDGE – 02 (SOUTH-EAST), SAKET COURTS COMPLEX: NEW
DELHI**

Civil Suit No.174/16 9722/16

M/s OSMA Infrastructure Services P Ltd. Vs. M/s Grand Slam & Ors.

22.02.2021

Order

1. Vide this order, I shall dispose of an application filed on behalf of the plaintiff under order 7 R 14 (2) and (3) r/w section 151 CPC for exemption from filing original or certified copies of documents.

2. It is submitted that the plaintiff has filed the suit for recovery of money in respect of commercial property bearing no. M-74, Ground Floor and Basement, M-Block Market, Greater Kailash, Part -II, New Delhi-110048 after terminating the tenancy of defendant no. 1.

3. It is submitted that the original documents of which copies have already been filed were not in power and possession of the plaintiff/ applicant at the time of filing the suit. It is submitted that no prejudice would cause to the defendant if the documents be taken on record as the case is at the stage of plaintiff evidence and defendant would get due opportunity to cross-examine the witness on these documents.

4. Reply to this application has been filed on behalf of the defendant. It is submitted by the defendant that by means of this application, the plaintiff seeks permission of this court to file and rely upon the resolution dated 15.05.2017 and attested copies of challans towards deposit of service tax. However, in the application under reply no reason has been assigned for not filing of these documents alongwith the plaint and / or before framing of issues

and therefore the application under reply is liable to be dismissed on this ground.

5. It is further submitted that the alleged challans were well within the knowledge and possession of the plaintiff at the time of filing of the present suit.

6. It is further submitted that the plaintiff has not come before the court with clean hands and has suppressed various important and relevant facts from the court and as such the application under reply is liable to be rejected on this ground.

7. It is further submitted that the documents sought to be placed on record are forged and fabricated documents and therefore, these cannot be relied upon for any purpose and the same have been got prepared by the plaintiff in order to make out a false case in its favour. It is further submitted that the documents sought to be filed do not relate to the defendant and / or to the present case in any manner.

8. Arguments heard. Record perused carefully.

9. Perusal of record shows that the case is at the stage of plaintiff evidence and the cross-examination has not yet been commenced. In such a situation, there is no reason to bar the plaintiff to file additional documents in support of his claim as the defendant shall get due opportunity to cross-examine the witness on these documents.

10. It has been held in ***Billa Jagan Mohan Reddy Vs. Billa Sanjeeva Reddy date of Judgment 28.01.1994*** that:-

“4. ... The explanation of delay is not as rigorous

as one filed under section 5 of the Limitation Act. These documents were not in the possession or custody of the appellants, but they have obtained certified copies from the Revenue Authorities and sought to be produced. It is undoubted that there is a delay in production of said documents. Bu the trial court had stated that the application was filed at the stage of arguments seeking to produce those documents and sought to rely upon the documents. It is settled law that, if the documents are found to be relevant to decide the real issue in the controversy, and when the court felt that interest of justice requires that the documents may be received, exercising the poser under Order 41 Rule 27 CPC the appellate court would receive the documents are sought to be produced in the trial court before the arguments are completed, normally they may be received; an opportunity given to prove them and rebuttal is any and their relevance and effect they may have, be considered in deciding the issues arising in the controversy. Under these circumstances, the trial court also justified in refusing to condone the delay and to receive the documents. The High Court also committed the same error in not considering the effect in this behalf in the right perspective. The orders are accordingly set aside and the delay in filing of documents is condoned. The trial court is directed to receive the documents, give an

opportunity to the parties to prove the documents and if necessary, opportunity to the respondent to rebut the same and then dispose of the reference according to law.

11. It has been further held in ***Nishant Hannan & Ors. Vs. South Delhi Municipal Corporation, CM (M) No. 262/2014 decided on 08.08.2014*** that :-

“3. The subject application for additional documents was filed when the plaintiff's evidence was going on, and the documents which are sought to be produced are the house-tax bills etc which are issued by the respondent itself upon the predecessor in interest of the petitioner / plaintiff's. The documents are therefore really unimpeachable documents. Supreme court in the case of Billa Jagan Mohan Reddy & Anr. Billa Sanjeeva Reddy Ors. (1994) 4 SSC 659 has held that if the documents are unimpeachable documents, the same can be led in evidence even at the stage of final arguments.”

12. It has been further held in ***Kapil Kumar Vs. Lalit Kumar Sharma & Anr. Civil Appeal no. 2330/2009SLP (c) no. 17249 of 2008, order dated 09.04.2009*** that :-

“ Having heard Learned counsel for the respective parties, we are unable to agree with the decision of the Division Bench as also the Single Bench as we have been informed that the cross-

examination has not yet commenced. In such a situation, we see no reason for debarring the appellant from filing the additional documents in support of his claim.”

13. On the basis of the abovesaid discussion, I am of this considered opinion that the application filed on behalf of the plaintiff under Order 7 Rules 14 (2) and (3) r/w section 151 CPC is hereby by allowed subject to payment of cost of Rs.2000/- to the defendant. Application is allowed and disposed of accordingly.

**Announced in the open Court
on 22.02.2021**

**(Neelam Singh)
Addl. District Judge -02 (South-East)
Saket Courts, New Delhi**