

CS No. 426/19

Shri Attar Singh Vs. Shri Jai Karan And Ors.

28.11.2023

Present : Counsel for plaintiff.

Sh. Sanjiv Sharma, counsel for defendant with
defendant no.1.

Vide this order, I shall decide an application under Order 11 Rule 12, 13 and 14 CPC filed by the plaintiff for production of documents.

It is submitted that plaintiff has filed a suit for declaration, possession and permanent injunction against the defendants in respect of property measuring 615 square yards falling in Khasra No.952/226, Revenue Estate of Madanpur Khadar, New Delhi.

The defendant in his written statement has stated that 45 square yards from the suit property has been sold to one Babita and hence defendant no.1 be directed to produce the documents executed by him in favour of Babita in respect of the portion of the suit property sold by him.

Plaintiff has prayed that the said documents be produced as they are relevant for resolving the dispute and the matter between the parties.

Reply was filed by defendant no.1 who has opposed the application stating that the said application has been moved only to delay the trial. Defendant has replied in his parawise

reply that he has not mentioned about any document in his written statement and further that he is not in possession of any such document as stated by the plaintiff. Therefore, application may be dismissed being devoid of any merit.

Heard and perused.

As the defendant has stated on affidavit that he is not in possession of any document demanded by the plaintiff, the application filed by the plaintiff is not maintainable, the same stands dismissed. Needless to say that the defendant shall be governed by Section 164 of the Evidence Act, which states as under:

Section 164. Using, as evidence, of document, production of which was refused on notice. - When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the order of the Court."

Keeping in view the above discussion, the application under Order 11 Rule 12, 13 and 14 CPC filed by the plaintiff for production of documents stands dismissed.

Matter be listed for arguments on application under Order 39 Rule 1 and 2 CPC and framing of issues on 03.02.2024.

(Purva Sareen),
ADJ-01, South District,
Saket Court/ND/28.11.2023