

IN THE COURT OF MS. SHALINDER KAUR
PRINCIPAL DISTRICT & SESSIONS JUDGE
SOUTH : SAKET COURTS, NEW DELHI.

CS DJ No.214/2021

MEERA JAIN

... PLAINTIFF

VERSUS

RAHUL GUPTA

...DEFENDANT

ORDER ON APPLICATION UNDER ORDER VII RULE
14(3) READ WITH SECTION 151 CPC

- 1) Plaintiff has filed **application dated 01.06.2023** under **Order VII Rule 14(3) CPC read with Section 151 CPC** to seek leave of the court to place on record copies of three lease deeds dated 25.04.2013, 19.03.2015 and 08.02.2017.
- 2) Though, no reply to the application has been filed on behalf of the defendant but the arguments have been addressed to contest the present application.
- 3) I have heard Sh. Siddharth Singh, learned counsel for the plaintiff as well as Sh. Vikas Arora, learned counsel for the defendant. Apart from hearing the arguments, record has also been perused.

- 4) Before proceeding to decide the application, it is necessary refer to the brief facts as emerging from the pleading. The plaintiff has filed a suit for Possession, Arrears of Rent, Mesne Profits and Damages for Illegal use and Occupation against the defendant. It is submitted that the plaintiff is absolute owner of the property bearing No.A-1/66, Second Floor, Safdarjung Enclave, New Delhi – 110029 (*hereinafter referred to as “the suit property”*) in terms of Memorandum of Family Settlement dated 12.03.2008. In the year 2013, the defendant occupied the suit property on a monthly rent of Rs.50,000/- however, he paid rent till the month of November 2013 and thereafter, he failed to pay any rent towards the suit property. The plaintiff called upon the defendant to provide the proof of payments of rent/occupation charges/arrears of rent/other charges paid towards electricity and water but the defendant with malafide intention and ulterior motive failed to furnish the same. Thereafter, the plaintiff issued a legal demand notice dated 09.02.2021 terminating his tenancy within 15 days from the receipt of the notice but the defendant failed to handover the peaceful vacant and physical possession of the suit property despite service of legal notice. It is also submitted that the plaintiff vide this suit has sought relief for decree of possession alongwith future mesne profits/damages for unauthorized use and occupation of the suit property by the defendant. For the purpose of

determining the mesne profits and damages, the plaintiff seeks to place on record certified copies of three Lease Deeds of the properties similarly situated in the vicinity. It is submitted that the defendant being in illegal occupation of the suit property is liable to pay the market rate of rent prevailing in the area till the date of handing over of peaceful, physical and vacant possession of the suit property. It is thus, submitted that the documents being relevant, necessary and genuine be allowed to be placed on record which if not taken on record shall cause great loss and hardship to the plaintiff.

- 5) It was submitted on behalf of the defendant that application is not maintainable as the documents to be relied upon by the plaintiff cannot be permitted to be filed at this stage. It is submitted that it is not the case of the plaintiff that the alleged documents could not be procured by the plaintiff at the time of filing of the suit therefore, the same cannot be permitted to be filed at belated stage. The defendant accordingly could not get an opportunity to reply to the alleged documents in the written statement. Moreover, the plaintiff has failed to show any relevance of filing the alleged documents on the record at this stage as the plaintiff has already ascertained the rent of the suit property @ Rs.50,000/- per month therefore, he cannot

produce any other evidence to contradict his own admissions.

- 6) To the contrary, it is contended on behalf of the plaintiff that the defendant is in unauthorized use and occupation of the suit property as he has failed to pay the alleged agreed rent @ Rs.50,000/- per month since November 2013. The defendant has also failed to reply the legal demand notice dated 09.02.2021 asking the defendant to hand over the peaceful, vacant and physical possession of the suit property to the plaintiff. It is also submitted that apart from seeking decree of possession, arrears of rent w.e.f. 25.03.2018 till 24.02.2021 @ 50,000/- per month. The plaintiff has also prayed for future mesne profits / damages for unauthorised use and occupation of the suit property by the defendant at the rate which has to be determined and fixed by the court after holding an enquiry under Order XX Rule 12 CPC. Therefore, the plaintiff is relying upon the alleged documents i.e. lease deeds to prove the market rent in the same vicinity as that of the suit property.
- 7) It was also submitted that the documents to be placed on record are the certified copies of lease agreement of similarly situated premises in the vicinity, obtained from the office of the sub registrar, which the plaintiff could not obtain earlier. But these documents are material and

relevant for effectual adjudication of the issues arisen due to the dispute between the parties. It was submitted that in the aforesaid circumstances, the application be allowed.

- 8) It is relevant to refer to **Order VII Rule 14 CPC**, which reads as under :-

“14. Documents relied on in Plaint.- Production of document on which plaintiff sues or relies

(1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such documents not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to document produced for the cross examination of the plaintiff's witnesses, or, handed over to a witness merely to refresh his memory.”

- 9) The law is well settled that in a suit whenever the plaintiff relies upon any document, he is required to furnish the

said document at the time of presentation of the suit and in case, if any such document is not in his possession, the same shall not be presented before the court without leave of the court to be received in evidence during the hearing of the court.

- 10) As per the plaintiff, the aforesaid three lease deeds were not in the power and possession of the plaintiff at the time of filing of the suit, certified copies of which have been obtained from the office of the concerned Sub-registrar. Moreover, it is pleaded that the lease deeds are important documents to decide the controversy in question with regard to ascertaining of mesne profits / damages which the plaintiff has claimed from the defendant.
- 11) The present case is at the stage of recording of evidence of the plaintiff and her witnesses. The affidavit of the plaintiff to lead examination in chief is not yet tendered in evidence. The reasons for not presenting the aforesaid documents alongwith the plaint at the time of institution of the suit has been well explained by the plaintiff. Moreover, no prejudice shall be caused to the defendant in the case the aforesaid documents are allowed to be placed on record as the defendant shall get sufficient opportunity to rebut these documents at the stage of recording of evidence of the parties. Also, the leased deeds are public /

registered documents and possibility of manipulating or forging these documents by the plaintiff does not arise. Reference is made to the judgment reported as ***Kapil Kumar Sharma Vs. Lalit Kumar in Civil Appeal No.2230 of 2009*** wherein the Hon'ble Supreme Court had permitted taking of additional documents on record wherein the cross examination of the plaintiff was yet to begin.

- 12) In view of the above discussions, **the application under Order VII Rule 14(3) CPC filed by the plaintiff is allowed.** Copies of lease deeds dated 25.04.2013, 19.03.2015 and 08.02.2017 are allowed to be taken on record. Copies of the same be furnished to the defendant.

***Announced in the open court
on 29th August 2023***

***(SHALINDER KAUR)
Principal District & Sessions Judge,
South, Saket Courts, New Delhi***