

Civ DJ 10253/16

SATPAL MALHOTRA AND ANR Vs. MOHINDER NATH
RAKHEJA AND ANR

17.09.2022

Present : Sh. Ajay Garg, ld. counsel for plaintiff.

Sh. Vineet Bahl, ld. counsel for defendant.

Heard on the application under Order XI Rule 14 CPC.

Plaintiff filed instant suit seeking specific performance of Agreement dt. 15.02.2014 & 17.01.2014. Plaintiff averred that defendant no.1 has stated in his written statement that he had certain transactions with the defendant no.2, who is builder in the property. Plaintiff averred in the application that following documents are necessary for proper adjudication of the suit which are in possession of the defendant no.1 :

- a. Collaboration Agreement dt. 28.12.2011 between defendant no.1 Mr. Mohinder Nath Rakheja and defendant no.2 Mrs. Savita Bhatia;
- b. Documents relating to Financial transaction between defendant no.1 Mr. Mohinder Nath Rakheja and defendant no.2 Mrs. Savita Bhatia with respect to Collaboration Agreement dt. 28.12.2011 and construction of suit property alongwith statement of account and Bill/Invoices of the defendant no.2 ;

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- c. Authority letter dt. 28.12.2011 executed by defendant no.1 Mr. Mohinder Nath Rakheja in favour of defendant no.2 Mrs. Savita Bhatia;
- d. Sanctioned plan of the suit property alongwith application for sanctioned plan with accompanied documents ; documents relating to Challan matter issued by concerned authorities during construction and papers for applying for regularisation of the suit property;
- e. Documents regarding payment of Friendly Loan of Rs.10 Lakhs by defendant no.1 Mr. Mohinder Nath Rakheja to defendant no.2 Mrs. Savita Bhatia; .
- f. Bank Statement of defendant no.1 Mr. Mohinder Nath Rakheja showing the credit and debit of Rs.10,00,000/- given by plaintiff;
- g. Document showing payment of Electricity and water Bills of suit property by the defendant no.1 Mr. Mohinder Nath Rakheja after 10.04.2015 till date.

Counsel for defendant submits that defendant is not in possession of the aforesaid documents and these documents are not necessary for adjudication of the suit.

Counsel for plaintiff in support of his contention has placed reliance on decisions in case of *Annaji Babaji Bhosle vs. M/s Paston*

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Agencies & anr, decided by Hon'ble High Court of Karnataka, and (2) *New India Assurance Co. Ltd & anr. vs. Amlin Underwriting Ltd & ors.*, 2016 SCC Online Bom 1427.

In my opinion, documents mentioned at serial no. (a) to (e) are necessary for just and proper adjudication of suit. Defendant in written statement has referred to these documents and admitted that he had transaction with defendant no.2 *vis-a-vis* the Suit Property. In view thereof, defendant no.1 is directed to produce on record the documents mentioned at serial no. (a) to (e) of the instant application by the next date of hearing.

Put up for arguments on the application under Section 45, 47 & 73 of Evidence Act on **22.10.2022**.

Interim order to continue till the next date of hearing.

(Manish Sharma)
Additional District Judge-01(West)
Tis Hazari Courts, Delhi