

15.09.2022

Present: Sh. Deepak Chauhan, Id. Counsel for the petitioner.
Ms Dimple Dhamija, Id. Counsel for respondent.

Arguments heard at length moved on the application of respondent under order 8 rule 1-A(3) read with section 151 CPC for bringing on record certain documents as mentioned in para 5 of the above said application.

It is stated in the application that said documents were inadvertently not mentioned/filed in the present case, though the same were relied upon by the respondent in the suit titled **Smt. Manju Vats and Ors. Vs Meena Pandey bearing CS (OS) No. 1281/2015** in the Hon'ble High Court. It is stated that all the documents sought to be filed are necessary for the fair decision of the present case and no prejudice would be caused to any of the parties, in case the present application is allowed and the documents are allowed to be brought on record.

Reply to the above said application has been filed stating that said application has been filed much much belatedly, as the petitioner 's evidence has been concluded and even one RW1 has been examined, these circumstances, documents should have been relied by the respondent in the written statement or in the cross-examination of petitioner's witnesses and now grave prejudice will be caused to the petitioner, if the application is allowed and documents are allowed to be brought on record.

No doubt, as per section 8 rule 1-A(3) CPC all the documents which are in power and possession of the respondent should be filed alongwith written statement. If they were not in her power and possession then the respondent should tell, in whose power and possession the said documents are. Surprisingly, in the present case, these documents were in power and possession of the respondent herself

and yet were not filed the only ground orally stated is inadvertence of the counsel and the respondent both. But at the same time petitioner was also aware about the above said documents and therefore it cannot be said that he would be surprised to see these documents, as said documents are stated to be already filed in a connected suit between the parties in the Hon'ble High Court. Be that as it may be. Since fair trial requires parties be allowed to place all the relevant documents on which they rely during trial, so that disputes between them are decided once for all on merits.

In the interest of justice, in view of above discussion, the said documents are allowed to be placed on record subject to cost(s) of Rs. 10,000/- to be paid by the respondent to the petitioner with liberty to the petitioner to file relevant documents in rebuttal and with the permission lead any evidence in rebuttal as well in respect of those documents, if so desired and advised.

The above said application stands disposed off with above observations.

Now to come up on 08.12.2022 for payment of cost(s) and R.E.

(Sanjeev Aggarwal)
ADJ-02, WEST
15.09.2022.