

Civ DJ 13375/16

VIKAS AGGARWAL Vs. TRIPURARI COAL SYNDICATE

01.11.2019

Pr: Sh.Bharat Bhushan, Ld.counsel for plaintiff with plaintiff in person.

Sh.Irfan Khan, Ld.counsel for defendant.

Arguments on the pending application of plaintiff under Section 151 CPC heard today.

Vide the present application, plaintiff intends to file on record an additional affidavit as in the previous affidavit filed on record, although reference to documents was made but by mistake, they were not exhibited.

Further, plaintiff wants to bring on record certain more facts with regard to pleadings mentioned in the plaint. Accordingly, the present application has been filed to take on record the additional evidence by way of affidavit.

Ld.counsel for defendant has opposed the application on the ground that in the evidence by affidavit, certain new facts have been introduced which are not part of the plaint. However, Ld.counsel for defendant has admitted that the documents which have been exhibited in the affidavit are already part of record.

Ld.counsel for defendant has further submitted that plaintiff has introduced additional facts which are not there in paras 3 to 7 of the plaint. Accordingly, he has made a prayer for dismissal of application.

I have carefully perused the plaint and in paras 3 to 7 of the plaint, plaintiff has asserted regarding supplying of goods to defendant through International Coal Agency, Karbala, Goalpara, Assam for which bills were being raised and coal worth Rs. 85,12,671/- was supplied and since plaintiff firm had placed the order on International Coal Agency, therefore, payment was

also made by them.

I have also carefully perused the additional affidavit proposed to be filed on record and in the same, no additional facts with regard to paras 3 to 7 of the plaint have been deposed and only details regarding bills worth Rs.85,12,671/- have been provided. Therefore, in the opinion of this court, no new facts have been deposed in the affidavit which are not part of the plaint.

Further, documents which have been referred in the additional affidavit are already part of record as admitted by ld.counsel for defendant.

The matter is still at the stage of examination in chief of plaintiff and no prejudice will be caused to defendant as he will have a right to cross examine the witness. Hence, **the application filed is allowed and additional affidavit is taken on record.**

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Ld.counsel for defendant admits regarding receipt of copy of additional affidavit.

List of witnesses be filed by respective parties within 15 days from today.

Now, put up on 11.02.2020 for evidence of PW1.

(Vikas Dhull)
ADJ-01/West/THC
Delhi