

## GULSHAN KUMAR CHAWLA VS VIJAY KUMAR CHAWLA AND ANR

16.08.2023

Present: Sh. Pankaj Kumar Aggarwal, Ld. Counsel for the plaintiff.  
Sh. V. K. Singh, Ld. Counsel for defendant no. 1 along with  
defendant no. 1  
Sh. Mohd. Ikram, Ld. Counsel for defendant no. 2.

Matter has been listed today for consideration of five applications. One application has been moved under Order 11 Rule 12 CPC by the plaintiff. Two other applications have been moved by the plaintiff, under Order 7 Rule 14 and under order VIII Rule 1 A for filing additional documents. One application has been moved by the defendant no. 1 under Order 7 Rule 10. The final application is under Sec. 151 CPC seeking waiver of the cost imposed on the plaintiff.

The application seeking waiver of cost is the 2<sup>nd</sup> such application. First application was declined on 27.01.2023. There is no reason to reconsider the matter. Application is thus declined.

Arguments have been heard on the application under Order 11 Rule 12 CPC. Defendants have submitted in their reply that the documents mentioned in the application of which production has been sought i.e Declaration dated 18.05.1979 executed by Late Sh. Tek Chand Chawla, passport of Late Sh. Tek Chand Chawla pertaining to period 1979 to 1981 and service records of Late Sh. Tek Chand Chawla, are not in their possession. Plaintiff in his application has contended that these documents are in the possession of defendants.

However, on account of refusal of the defendants to the effect that they are not in possession of these documents (supported with an affidavit), no further action is required on the application. Accordingly, the said application also stands dismissed.

Plaintiff has also filed an application under Order 8 Rule 1-A(3) read with Sec. 151 CPC on 12.07.2023 for taking on record additional documents. This application has been moved under an incorrect provision. Since, plaintiff has earlier moved application under Order 7 Rule 14 CPC which is still pending, the Ld. Counsel for plaintiff seeks time to clarify as to which of these two applications, he wants to press on the NDOH.

Replication has been filed on behalf of plaintiff to the WS of defendant no. 3. Same appears to have been filed beyond 45 days of receiving the WS.

Arguments also heard on the application under Order 7 Rule 10.

Put up for order on the said application on 14.12.2023 and arguments on the pending applications under Order 7 Rule 14 for filing additional documents. In the meanwhile, call for valuation of the first and second floor of the suit property from the concerned SDM. Issue Court notice for this purpose.

(Dr. Ajay Gulati)  
ADJ-02, WEST  
16.08.2023