

**In the Court of Shri Naresh Kumar Laka
District Judge – 07, Central District,
Tis Hazari Courts, New Delhi**

**CS DJ 675/2019
CNR No. DLCT01-009649-2019**

In the matter of:

Shyam Chaudhary

..... Plaintiff

versus

Din Co-operative Group Housing Society and Ors.

..... Defendants

Date: 09.05.2025

ORDER

Vide this order, I shall decide an application filed on behalf of defendant no. 1 under Order 8 Rule 3 CPC (same is treated as under Order 8 Rule 1A CPC) seeking placing on record additional documents.

2. I have heard argument on the said application from Sh. Sneh Vardhan, Ld. Counsel for plaintiff and Sh. A.S. Kulshrestha, Ld. Counsel for defendant no. 1. File perused.

3. The present suit was filed for the relief of permanent injunction and recovery by claiming that the defendant is a Cooperative Society, who constructed residential flats in Sector-4, Dwarka and

allotted the same to its members. The defendant no. 2 was one of the allottees and he approached the plaintiff to sell the said flat at a consideration amount of Rs.10,00,000. Accordingly, plaintiff entered into an agreement dated 08.09.2000 and the total consideration amount was paid to defendant no. 2 on 12.08.2000. In the said agreement, it was also stated by defendant no. 2 that the said property was free from all kind of encumbrances. Thereupon, the defendant executed certain documents like GPA, Will, etc, and the plaintiff took possession of the said flat and put his lock on the same. It is further claimed that when the plaintiff visited in September, 2002 to the said flat, he was not allowed to open its lock by the representative of defendant no. 1/society. Consequently, the present suit was filed by the plaintiff against the defendants.

4. In the present application, it is stated that during the tendering of affidavit in evidence by defendant's witness, the counsel for the plaintiff raised objections regarding tendering of certain documents, on the ground that these documents had not been filed earlier as required by law. It is further stated that there are *bona fide* reasons for non-filing of the said documents because after the filing of the written statement, the plaintiff moved an application for amendment of the plaint, which was allowed by this court vide order dated 19.09.2006. Defendant No.1 had previously filed an application before the Registrar, Cooperative Society, against the past office bearers of the Management for failing to

hand over the society's records. Consequently, Defendant No. 2 was compelled to file Civil Writ Petition No. 1818 of 2003 titled The DIN CGHS vs. SHO Dwarka and Others in the Hon'ble High Court of Delhi. The Hon'ble High Court, vide its order dated 11.03.2003, directed the area SDM to appear in person before the court on 21.04.2003 to explain why appropriate orders had not been passed pursuant to the Registrar of Cooperative Societies' order dated 28.02.2001. In compliance with the High Court's directions, the area SDM and SHO visited the society and seized the entire records from its office.

5. An FIR bearing No. 584/2003 PS: Uttam Nagar, under Sections 403, 406, 420, 468, 471, 120-B read with Section 34 of the IPC, was registered against Madan Sharma, H.S. Mongia, and Dr. Subhash Bhargava. The entire seized record was filed along with the chargesheet in FIR No. 584/2003, PS: Uttam Nagar, before the Hon'ble Court of ACMM (West), Delhi. However, the proceedings in the said case were abated due to the death of the accused persons. Defendant No.1 obtained certified copies of the entire records pertaining to the society from the Hon'ble Court of ACMM (West), Delhi. These records contain details of payments made by members from time to time, membership information, and the list of flat allotments by the DDA, among other relevant details. The documents were originally seized in 2003 by the SDM and SHO. Although some documents were filed with the written statement, however, the amendment to the plaint was allowed on

19.09.2006, which was subsequent to the seizure of these records. At that time, the documents were not in the control of Defendant No.1 and thus it could not file the same.

6. In the reply to the present application, Ld. Counsel for plaintiff opposed the filing of the said documents and the counsel for the plaintiff argued that the defendant no. 1 cannot be allowed to fill up the lacuna when the case already reached to very advanced stage.

7. From the pleadings on record, it appears that besides the civil rights, certain criminal proceedings were going on vide FIR no. 584/2003 relating to the offences of cheating, forgery and criminal breach of trust and the said documents i.e. the chargesheet and seized documents were not in the custody of the defendant no. 1 at the time of filing of the written statement, therefore, there was no occasion for the defendant no. 1 to file said documents alongwith WS. The plaintiff also got amended his plaint subsequently. The said criminal proceedings are also very important to arrive at just decision, when the allegation of cheating/fraud has been alleged by the defendant no. 1 in the instant case. It is also a common knowledge that for the offences of conspiracy and cheating, the entire circumstances are required to be brought on record to understand the same. For causing delay in the matter by not filing the appropriate application at the earlier occasion, cost can be imposed upon the defendant no. 1.

8. In the light of aforesaid discussion, the present application is allowed subject to cost of Rs.4,000 to be paid to the plaintiff by the defendant no. 1. However, the documents as relied by the defendant no. 1 vide the present application are required to be proved as per law, if not disputed.

9. The present case is very old pertaining to the year 2003 and in order to expedite the process of recording of evidence, the plaintiff is directed to file affidavit of admission/denial of said documents within 30 days with advance copy to opposite counsel and, thereafter, the documents which are admitted by the plaintiff are not required to be proved on record by the defendant and this way, it will expedite the delay of the present case.

10. Put up for compliance of the aforesaid order and further proceeding on **05.07.2025**.

Announced & dictated in
the open court on **09.05.2025**

(Naresh Kumar Laka)
District Judge-07
Central District/Tis Hazari.