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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 315/2019**

SMT. BHAWANA AGGARWAL

.....Plaintiff

Through: Mr. Imran Khan and Mr. Nalin
Vinayak Gupta, Advs.

versus

SHRI SUMIT AGGARWAL & ORS.

.....Defendant

Through: Mr. Amit Gupta with Mr. Kshitij
Vaibhav, Mr. H.S. Mahapatra and
Ms. Muskan Nagpal, Advs.

CORAM:

**JOINT REGISTRAR (JUDICIAL) SH. DEVENDER
KUMAR GARG (DHJS)**

ORDER

07.04.2025

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Proceedings are being conducted through hybrid mode.

**I.A. No. 16943/2019 (by plaintiff u/O XI Rule 12 & 14 of
CPC)**

1. Today the captioned IA is listed for further arguments.
2. Further arguments have been heard from both sides.
3. Brief facts as stated in the present application are as follows: -

- (a) The plaintiff has contended in the present suit that Late Sh. Raj Kumar Aggarwal, father-in-law of the plaintiff had two self acquired properties i.e. (i) B-1/72, Rajasthali Apartments, New Delhi and (ii) 8288/1, New Anaj Mandi, Near Filmistan Cinema, Delhi. The plaintiff is legally wedded wife of Late Sh. Anand Aggarwal.

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- (b) The defendants no.1 to 3 have filed their written statement jointly and contended that defendant no.1 is exclusive owner of the property no.8288/1, New Anaj Mandi, Near Filmistan Cinema, Delhi and the plaintiff has no right or interest over the same and as per family settlement, flat/property bearing no. B-1/72, Rajasthali Apartments, Pitampura, New Delhi exclusively vests with the defendant no.1 (vide para 5 of the preliminary objections of the written statement).
- (c) The defendants have further alleged in the written statement that the property no.8288/1, New Anaj Mandi, Near Filmistan Cinema, Delhi is under the ownership of defendant no.1 vide para 3 of the preliminary objection of the written statement.
- (d) The plaintiff wants to put certain question to the defendant no.1 as mentioned in sub-paras (A) to (D) of para 5 of the captioned IA.
- (e) The defendant no.1 must be in power & possession of the title documents i.e. sale-deeds etc. of property no.8288/1, New Anaj Mandi, Nar Filmistan, Delhi because he has claimed his exclusive ownership over the said property and apart from it, he must be in power and possession of the Rent Agreement, rent receipts, in relation to the tenants occupying the said premises House Tax Receipt, Electricity Bill and the same are relevant and material for proper adjudication of this case and hence, defendants may be directed to produce documents before Hon'ble Court. The said documents and interrogatory are

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relevant and material for the proper adjudication of the case.



4. Reply to the captioned IA was filed on behalf of the defendants wherein it is stated that the plaintiff seeks to have a fishing and roving enquiry and is not sure about her own case. It is further stated that the defendants have very clearly put forth their version in written statement and the questions mentioned in para 5 of the application go beyond the pleadings of the plaintiff in the plaint and cannot be permitted. It is further stated that object of Order XI CPC cannot be allowed to be misused by the plaintiff and the purpose of interrogatories is to elicit relevant information to be adduced at the trial and to save lengthy evidence, however, the interrogatories have to be confined to matters in issue and need to have close connection with matters in question. It is further stated that in the present matter, interrogatories are vague and ambiguous and very nature of the interrogatories shows that the plaintiff has a clear understanding that her plaint is frivolous and she does not have any material to discharge the burden of proof to support her case. It is further stated that the defendants have clearly stated about the factum of oral family settlement amongst the family of Late Sh. Raj Kumar Aggarwal and therefore, nothing further is required to be submitted. It is further stated that the plaintiff can put the question to the defendants in cross-examination, also does not entitle the plaintiff to pose an interrogatory at this stage as

formulated in Ques. (A). It is further stated that rest Ques.

(B), (C) and (D) are contrary to the plaintiff's own

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pleadings in para 9 of the plaint wherein plaintiff has stated that she is getting rent from a tenant occupied on the ground floor of the property at 8288/1, New Anaj Mandi, Near Filmistan Cinema, Delhi. It is further stated that questions framed in para 6 of the present application are not as per the format of interrogatories provided in CPC and hence, cannot be permitted. It is further stated that even though the plaintiff claims to have a right over the ground floor of property at 8288/1, New Anaj Mandi, Near Filmistan Cinema, Delhi, the plaintiff has no knowledge or information about the title documents or house tax receipts or electricity bill. It is prayed that the captioned IA may kindly be dismissed.

5. Perusal of order dated 10.11.2023 would show that it was submitted on behalf of plaintiff that the plaintiff does not wish to file any rejoinder to the reply of defendants.
6. I have heard arguments from Mr. Shiv Charan Garg alongwith Mr. Imran Khan, Ld. Counsels for plaintiff and Mr. Amit Gupta, Ld. Counsel for defendants and have perused the material available on record carefully.
7. Ld. Counsel for defendants has contended that the captioned IA is not maintainable as the same has not been filed within 15 days of the receipt of written statement from the defendants as referred in Delhi High Court (Original Side) Rules. He has further contended that he has received advance copy of one application under Order XII Rule 6 of CPC wherein the plaintiff has sought relief for passing decree in the present suit. Ld. Counsel

for defendant has relied upon judgments titled “Rajasthan Golden Transport Co. (Pvt.) Ltd. vs. Avon Footwear

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Industries Pvt. Ltd.” A.R. 1986 DELHI 286; “Hungama Digital Media Entertainment P. Ltd. vs. ADB Mobile Entertainment & Ors.”, 223 (2015) Delhi Law Times 85, “Delhi State Industrial & Infrastructural Development Corporation Ltd. & anr. Vs. Shiv Kumar” 2013 SCC OnLine Del 3773 and; “Anjulika Vinod Dewan vs. Smt. Vijay Laxmi Chauhan & Ors.” 2008 (102) DRJ 755.

8. On the other hand, Ld. Counsel for plaintiff has submitted that there is no time limit for filing the captioned IA and the same can be filed at any stage. He has further contended that it is correct that an application under Order XII Rule 6 CPC for passing decree on admissions as mentioned in the written statement of the defendants, has been moved on behalf of the plaintiff, however, the same is yet to be listed before the Hon’ble Court. Ld. Counsel for plaintiff has submitted that the captioned IA is very well maintainable and the same may be allowed. He has relied upon judgments titled as “Maria Margarida Sequeira Fernandes and Ors. Vs. Erasmo Jack De Sequerira (dead) through LRs”, (2012) 5 Supreme Court Cases 370; “A.K. Aggarwal & Anr. Vs. Shanti Devi & Anr.”, 1955 SCC OnLine Del 965 and “Amit Mehendru vs. Ajay Mahendru & Anr.”, 2022 SCC OnLine Del 4281.
9. Perusal of the file would show that the present application has been moved by the plaintiff for directions to the defendants to answer interrogatories by way of affidavit as mentioned in para 5 of the application and production of documents as mentioned in para 6 of the application.

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Chapter VIII of Delhi High Court (Original Side) Rules



refers about Discovery, Inspection and Interrogatories and the said Rule reads as under: -

1. Applications for Discovery, Inspection and Interrogatories by plaintiff.—In addition to the right of the plaintiff to file applications as provided in Rule 1(f) of Chapter IV of these Rules, the plaintiff shall also be entitled to file such application within 15 days of receipt of written statement from the defendant. No such application by the plaintiff, except with leave of Court, shall be entertained thereafter.

2. Applications for Discovery, Inspection and Interrogatories by defendant.—In addition to the right of the defendant to file applications as provided in Rule 3 of Chapter VII of these Rules, the defendant shall also be entitled to file such application within 15 days of receipt of replication from the plaintiff. No such application by defendant, except with leave of Court, shall be entertained thereafter.

3. Service of such applications.—On the Court allowing the application for interrogatories, the same shall be served upon and answered in accordance with the provisions of the Code.

11. It is matter of record that the present matter has been filed on original side and hence, Delhi High Court (Original Side) Rules are applicable in the present matter. As per Rule 1 of Chapter VIII of Delhi High Court (Original Side) Rules, the plaintiff is entitled to file application for discovery, inspection and interrogatories within 15 days of receipt of written statement from the defendants. It is clearly mentioned in the above referred provision that no such application by the plaintiff, except with the leave of the court, shall be entertained thereafter.

12. Perusal of the file would show that advance copy of written statement was supplied by the defendants on

14.10.2019 and the written statement was filed on record vide diary no. 11962/19 on 15.10.2019. Perusal of

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record would show that the captioned IA same was filed vide diary no.1462694/2019 on 29.11.2019 and the same was taken up for hearing on 04.12.2019. It is matter of record that the captioned IA has not been filed within 15 days from the date of receipt of written statement from the defendants. It is also matter of record that no leave of the Court has been taken for filing the captioned IA being beyond aforesaid 15 days period.

13. Further, during the course of arguments, it is admitted by Ld. Counsel for plaintiff that the plaintiff has filed an application u/O XII Rule 6 of CPC and the advance copy of the same has already been supplied to the opposite party. In the said application, the plaintiff has prayed for passing of decree on the basis of admissions allegedly made by the defendants in their written statement. Thus, when the plaintiff is moving application presuming that there are admissions on behalf of the defendants in their written statement, on the basis of which, even request for passing decree has been made, then, the point for consideration would be as to whether the information or production of documents sought by the plaintiff by way of captioned IA, would be necessary.

14. The undersigned is of the view that filing of application under Order XII Rule 6 of CPC on behalf of the plaintiff implies that the information or facts mentioned in the written statement are complete and no further enquiry or information is required by the plaintiff at this stage. The judgments relied upon by Ld. Counsel for plaintiff are not

applicable to the facts of the matter being distinguishable on facts.

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15. Thus, keeping in view the facts & circumstances of the case, the present application is not maintainable and the same stands dismissed accordingly.

I.A. No. 10195/2019 (by plaintiff for stay)

16. Pleadings qua the captioned IA are already complete.

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17. It is submitted that the matter is coming up for hearing before the Hon'ble Court on 14.04.2025 for framing of issues.

18. Let the matter be placed before Hon'ble Court for further directions on the date already fixed i.e. **14th April, 2025.**

**DEVENDER KUMAR GARG (DHJS)
JOINT REGISTRAR (JUDICIAL)**

APRIL 7, 2025/v

[Click here to check corrigendum, if any](#)

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