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

+ **CS(OS) 568/2021**

MANISH RACHHOYA

.....Plaintiff

Through: Mr. Rajesh Yadav, Sr. Adv. with Mr.
Vishal Maan and Mr. Jayant
Tewathia, Advs.

Versus

KAMAL KANT RACHHOYA

.....Defendant

Through: Mr. Swastik Singh and Mr. Atul
Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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10.09.2024

I.A. 38042/2024(by plaintiff under Section 151 CPC seeking permission to place on record hard copies of documents)

1. The present application has been filed by the plaintiff seeking permission to place on record the hard copy of the documents i.e. certified copies of two sale deeds dated 26.02.2021 and 18.04.2022.
2. The learned Senior Counsel for the plaintiff submits that the filing of the present application to place on record the two sale deeds has been necessitated by the fact that the defendant filed an I.A.6039/2023 under Order VII Rule 10 CPC raising an objection that the suit has not been properly valued for the purposes of Court Fee and jurisdiction.
3. He submits that in order to meet the said objection, reply to the said application was filed by the plaintiff along with which copies of two sale



deeds were placed on record and subsequently, certified copies of the sale deeds were procured.

4. He submits that it is the said certified copies of two sale deeds which are sought to be placed on record along with the present application. He submits that the said sale deeds pertain to the properties that are in the vicinity of the suit property and the purpose of bringing the certified copies on record is to establish that the valuation of the suit property is more than Rs. 2 crores. He, therefore, urges the Court that the present application be allowed in the interest of justice.

5. *Per contra*, the learned counsel for the defendant submits that the present application has been filed under Section 151 CPC and not under Order VII Rule 14 CPC which is a specific provision meant for filing additional documents.

6. He further submits that the documents have been sought to be placed on record after the application has been filed by the defendant under Order VII Rule 10 CPC. He further submits that there are no averments with regard to the ingredients of Order VII Rule 14 CPC in the application filed under Section 151 CPC. He, therefore, urges the Court that the application may be dismissed.

7. I have heard the learned Senior Counsel for the plaintiff, as well as, the learned counsel for the defendant and have perused the record.

8. To be noted, that the present suit has been filed in the year 2021 whereas the application under Order VII Rule 10 CPC came to be filed by the defendant only on 25.03.2023. It thus, appears that filing of said application gave a reason to the plaintiff to bring on record the additional documents in the form of two sale deeds to establish that the valuation of the



suit property is more than Rs. 2 crores. Thus, there is merit in the contention of the learned senior counsel for the plaintiff that at the time of filing of plaint there was no occasion to file certified copies of the said two sale deeds. Even otherwise, this court finds that in the factual backdrop noted above, bringing on record the certified copies of two sale deeds is imperative in the interest of justice.

9. In so far as the submission of the learned counsel for the defendant that the application has not been filed under the specific provision of Order VII Rule 14 CPC, suffice it say that mentioning an incorrect provision of law in an application does not render the application as incompetent and the court can always treat the application under correct provision of law.

10. As regards the submission that the application does not contain the averments in terms of the Order VII Rule 11 CPC, it may be observed that it has not been pointed out by the learned counsel for the defendant as to which ingredients of Order VII Rule 11 CPC are missing in the present application.

11. Further, this Court cannot be unmindful that the jurisprudence in respect of granting leave to file additional documents under Order VII Rule 14(3) CPC or Order VIII Rule 1A(3) CPC has evolved after the decisions of the Hon'ble Supreme Court in ***Sugandhi (Dead) by Legal Representatives and Another vs. P. Rajkumar, represented by his Power Agent Imam Oli, (2020) 10 SCC 706*** and ***Levaku Pedda Reddamma & Ors. vs. Gottumukkala Venkata Subbamma & Anr., Civil Appeal No. 4096/2022 dated 17.05.2022***, which in unequivocal terms provide that the court should take a lenient view when an application is made for filing additional documents.



12. In ***Sugandhi (supra)*** it was observed by the Hon'ble Supreme Court as under:

“7. Sub-rule (1) mandates the defendant to produce the documents in his possession before the court and file the same along with his written statement. He must list out the documents which are in his possession or power as well as those which are not. In case the defendant does not file any document or copy thereof along with his written statement, such a document shall not be allowed to be received in evidence on behalf of the defendant at the hearing of the suit. However, this will not apply to a document produced for cross-examination of the plaintiff's witnesses or handed over to a witness merely to refresh his memory. Sub-rule (3) states that a document which is not produced at the time of filing of the written statement, shall not be received in evidence except with the leave of the court. Rule 1(1) of Order 13 CPC again makes it mandatory for the parties to produce their original documents before settlement of issues.

8. Sub-rule (3), as quoted above, provides a second opportunity to the defendant to produce the documents which ought to have been produced in the court along with the written statement, with the leave of the court. The discretion conferred upon the court to grant such leave is to be exercised judiciously. While there is no straitjacket formula, this leave can be granted by the court on a good cause being shown by the defendant.

9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to



thrash out the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under sub-rule (3)."

(emphasis supplied)

13. Likewise, in ***Levaku (supra)*** the Hon'ble Supreme Court took a liberal view in allowing the application under Rule 1A(3) of the Order VIII CPC by observing as under:

"The defendant Nos. 2 to 5 are in appeal aggrieved against the order passed by the High Court affirming the order passed by the trial Court refusing to permit the appellant to produce additional documents in terms of Order VIII Rule 1 of the Code of Civil Procedure.

We find that the trial Court as well as the High Court have gravely erred in law in not permitting the defendants to produce documents, the relevance of which can be examined by the trial Court on the basis of the evidence to be led, but to deprive a party to the suit not to file documents even if there is some delay will lead to denial of justice.

It is well settled that rules of procedure are hand-maid of justice and, therefore, even if there is some delay, the trial Court should have imposed some costs rather than to decline the production of the documents itself."

(emphasis supplied)

14. It is also trite law that while dealing with the procedural law the old adage of procedural laws being handmaid of justice must be kept in mind. The procedural rules must not be read to defeat the basic purpose of statute to hamper justice unless the violation of procedure would itself amount to grave justice.

15. In view of the above, the present application is allowed and the documents are taken on record.



16. The application stands disposed of.

I.A. 36201/2024 (under Order XVI Rule 1 read with Section 151 CPC seeking summoning of witnesses by plaintiff)

17. By way of present application, the plaintiff is seeking to summon the witnesses from the office of Sub-Registrar to prove the sale deeds mentioned at serial No.(b) and (c) of sub-para (ii) of para 2 of the present application.

18. Since the certified copies of the two sale deeds filed by the plaintiff have been taken on record, therefore, the present application is allowed.

19. Accordingly, the plaintiff is permitted to summon the witnesses for 17.09.2024, the date already fixed before the learned Local Commissioner for recording of evidence. Since the time before the next date is short, the Registry is directed to give notice for the witnesses *dasti*.

20. The application stands disposed of.

I.A. 38013/2024 (by plaintiff under Section 151 CPC seeking early hearing of I.A. No. 36201/2024)

21. The learned Senior Counsel for the plaintiff does not wish to press the present application.

22. The application is thus, dismissed as withdrawn.

VIKAS MAHAJAN, J

SEPTEMBER 10, 2024/dss