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

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CS(OS) 568/2021

MANISH RACHHOYA

.....Plaintiff

Through: None.

Versus

KAMAL KANT RACHHOYA

.....Defendant

Through: Mr. Swastik Singh & Mr.  
Himanshu Dagar, Advs.

**CORAM:**

**JOINT REGISTRAR (JUDICIAL) MS. PREETI  
PAREWA, (DHJS)**

**ORDER**

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**11.09.2025**

**I.A. 39503/2024 under Order XVIII Rule 17 r/w Section  
151 moved on behalf of the defendant seeking recalling  
of PW1, Mr. Manish Rachhoya.**

1. By way of the captioned IA, the applicant/defendant seeks recall of PW1/Mr. Manish Rachhoya (plaintiff) for further cross-examination.

(1.A) It is submitted that the present suit is filed seeking recovery of possession alongwith the mesne profits and permanent injunction. That, the defendant had taken a specific objection in its Written Statement, with respect to over-valuation of the suit property, by the plaintiff to invoke the jurisdiction of the Hon'ble Court.

(1.B) That, after completion of the pleadings and filing of a joint schedule etc., the applicant/defendant had filed an application under the provisions of Order VII Rule 10 of CPC being IA no.6039 of 2023 stating the plaintiff has illegally over valued the suit property to get the suit within the jurisdiction of this Hon'ble Court.



(1.C) That in reply to the same, the plaintiff filed two Sale Deeds, dated 26.02.2021 & 18.04.2022 respectively alleging that they are of similarly situated properties. Further, it is submitted that the PW1, during his evidence had relied on the said sale deeds, which were marked as Mark G and Mark H. That while the aforesaid two sale deeds were being marked during the examination-in-chief of PW1/Mr. Manish Rachhoya, the counsel for the defendant had taken a specific objection that no permission has been taken to place the additional documents on record, in accordance with the procedure laid down in CPC. That, since the said Sale Deeds were not placed on record, in accordance with law, there was no occasion for the counsel for the defendant to cross examine the witness, trying to prove the said Sale Deeds, at that stage.

(1.D) That, thereafter the plaintiff had filed an application bearing IA 38042 of 2024, under the provisions of Section 151 of CPC, to take on record the said two Sale Deeds, which the Hon'ble Court vide its order dated 10.09.2024 treated the said application as filed under Order VII Rule 14 of CPC, and accordingly, the Sale Deeds in question were taken on record.

That, the said two Sale Deeds have been taken on record in accordance with provisions laid down in CPC, and the defendant seeks permission to cross-examine the PW1/Mr. Manish Rachhoya, to the limited extent of the statement made with respect to the said two sale deeds.

2. *Per contra*, the above-captioned has been opposed by learned counsel for the plaintiff, who submits that the



instant application has been filed with malafide intention to fill in the lacunae, which can be done only in exceptional circumstances and not in a routine manner.

(2.A) That the defendant did not file any rejoinder to the reply filed by the plaintiff to IA no.6039/2023, nor he objected that the said documents being additional documents cannot be taken on record.

(2.B) The plaintiff led his evidence and during the examination-in-chief of the plaintiff/PW1, the defendant for the very first time took an objection that the aforesaid sale deeds should be marked in evidence as there was no formal application filed under Order VII Rule 14 of CPC by the plaintiff to bring on record the said documents. However, the said documents were duly marked during the examination-in-chief of plaintiff and were very much on record. The said sale deeds were marked as Mark G and H respectively. That, lengthy cross-examination of plaintiff/PW1/Mr. Manish Rachhoya running into 20-22 pages was conducted on behalf of the applicant/defendant and the said witness was discharged on 22.04.2024.

(2.C) That, the defendant chose not put any question or even a suggestion to the plaintiff regarding the aforesaid sale deeds. That, the sale deeds were always on record as filed in the month of July, 2023. The defendant never raised any objection qua the filing of documents at the relevant stage, and raised an objection to the same not filed by way of a formal application under Order VII Rule 14 CPC only at the stage of examination-in-chief of the plaintiff. Yet, the said sale deeds were marked in evidence



as Mark G and H respectively, as indicated hereinabove.

(2.D) That, the defendant has filed the application at a belated stage only in order to delay the progress of the suit.

(2.E) That, the defendant has failed to state in the application under reply as to for what purpose is the plaintiff required to be re-examined.

3. I have heard the submissions and gone through the Court records.

4. As per the CPC, a document can only be placed on record in the manner as given below:-

- (i) When filed alongwith the pleadings;
- (ii) With the leave of the Court at the later stage;
- (iii) As additional evidence in the appeal (Order XLI Rule 27 CPC); or
- (iv) During the cross-examination/rebuttal with the court permission.

(4.A). In the present case, the Sale Deeds earlier marked as Mark G& Mark H were not part of the pleadings of the present suit. They were filed by the plaintiff in reply to IA no.6039/2023 under Order VII Rule 10 CPC and at the time of tendering of the evidence by way of Affidavit of PW1/plaintiff and the same were marked as Mark G & Mark H. However, the said Sale Deeds were taken on record by virtue of order dated 10.09.2021 of the Hon'ble Court. The plaintiff has gone ahead and proved the copy of these Sale Deeds by examining the concerned official witness from the Sub-Registrar office on 04.10.2024. The defendant objected to the very marking of the said documents on the ground of mode of proof and



admissibility at the time of examination-in-chief of PW1/Mr. Manish Rachhoya. Thus, the two Sale Deeds in question have become part of the record only after the order dated 10.09.2024 passed by the Hon'ble Court, whereas the PW1/Mr. Manish Rachhoya was already discharged on 22.04.2024. Thus, for ensuring fair trial and affording the defendant the right to challenge the evidence against him, in the opinion of the Court, the application at hand deserves to be allowed, subject to the rider that only one effective opportunity shall be granted to the defendant to cross-examine the plaintiff/PW1 only to the limited extent to the statement made by PW1 with respect to the two Sale Deeds (Mark G & Mark H) in question.

5. Accordingly, the instant applicant stands allowed in the above-said terms and the above-captioned IA stands disposed of.

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6. An application bearing IA no.39503/2024 moved by the defendant seeking recalling of the witness i.e. PW1/Mr. Manish Rachhoya for further cross examination has been allowed and the defendant is granted one effective opportunity to cross-examine the plaintiff/PW1 only to the limited extent to which the statement made by PW1 with respect to two Sale Deeds in question.

7. Learned counsels for the parties are directed to co-ordinate with the learned Local Commissioner and fix the dates for recording further cross-examination of plaintiff/PW1 only to the limited extent to the statement made by PW1 with respect to two Sale Deeds in question, as per their convenience and as per the convenience of the



learned Local Commissioner

8. Re-notify the matter for awaiting report of learned Local Commissioner on 04.12.2025.

**PREETI PAREWA (DHJS)**  
**JOINT REGISTRAR (JUDICIAL)**  
**SEPTEMBER 11, 2025/ab**