



\$~9

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

+ **CS(OS) 2209/2006**

JAPPREET K. KITTY

..... Plaintiff

Through: Mr. Anuj Handa, Advocate (through
video conferencing).

versus

CHEIL COMMUNICATIONS INDIA PVT. LTD. & ORS.

..... Defendants

Through: Mr. Sumant Nayak, Mr. Mohit
Chaddha & Ms. Shraddha Chaudhari,
Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

%

30.08.2022

I.A. 2299/2018 (U/S 151 of CPC, 1908 seeking recall of the plaintiff for further evidence)

1. The present application has been filed under Section 151 of the Code of Civil Procedure, 1908 on behalf of the plaintiff seeking re-examination of the plaintiff to prove the certificates under 65B of the Indian Evidence Act, 1872 in support of the various e-mails which have been proved by the plaintiff in her evidence.
2. The present application is contested by the counsel for the defendants who has submitted that the evidence of PW-1/plaintiff was concluded in the year 2015 and that of PW-2 was in the year 2017 and also submits that the present application has been filed highly belatedly and cannot be allowed.
3. It is further submitted by the counsel for the defendants that this



application is intended to file the lacuna in the evidence of the plaintiff, which cannot be allowed. Furthermore, the conduct of the plaintiff has been to delay the matter on one pretext or other. The costs have been imposed many a times on the plaintiff. Since, the plaintiff is intentionally delaying the matter and considering the conduct of the plaintiff, the present application is strongly opposed.

4. Submissions heard.

5. The plaintiff in her testimony had proved certain e-mails which were not supported by the certificates under Section 65B of the Indian Evidence Act, 1872. The present application has been filed in order to file the certificate under Section 65B of the Indian Evidence Act, 1872 in support of e-mails which have already been proved in the statement of PW-1/plaintiff and also to prove some documents/e-mails which could not be exhibited in her testimony.

6. Learned counsel for the plaintiff submits that due to inadvertence, the said e-mails could not be proved, even though they had been filed on record.

7. Considering that the documents/emails have been filed but could not be exhibited and also the certificate under Section 65B of the Indian Evidence Act, 1872 is intended to be proved, which is mandatorily required to prove electronic documents, the present application is allowed subject to costs of Rs. 50,000 payable to the defendants.

8. One last opportunity is granted to the plaintiff to conclude her entire evidence, failing which, the same shall be closed.

9. List before the Joint Registrar for recording of evidence on 10th October, 2022.

10. Application is disposed of.



I.A. 2976/2018 (U/O XVI Rule 3 read with Section 151 of CPC seeking examination of further witnesses not named in the list of witnesses)

1. The present application has been filed under Order XVI Rule 3 read with Section 151 of the Code of Civil Procedure, 1908 on behalf of the plaintiff seeking permission to examine two other witnesses, namely, Mr. Alan Docherty and Ms. Meera Sharath Chandra, who have not been named in the list of witnesses.
2. It is submitted in the application that in order to prove the requirement for Creative Blog for advertising professionals and also the conduct of the plaintiff, the plaintiff seeks to examine Mr. Alan Docherty, who was the Creative Director of Cheil London, which is a sister Concern of the defendant-Company in London with whom the plaintiff had worked on various projects during the course of her employment. It is submitted that Mr. Alan Docherty has since then left the services of Cheil London, though he continues to work in the field of advertising professional.
3. The other witness who is proposed to be examined is one Ms. Meera Sharath Chandra, who is a reputed advertising professional with whom the plaintiff had worked after being illegally terminated by the defendant-Company, in order to shed light on the need for a Creative Blog and for the professional conduct.
4. **Submissions heard.**
5. In so far as Mr. Alan Docherty is concerned, he was based in London in the sister concern of the defendant-Company and with whom the plaintiff had done various projects.
6. On a specific query, learned counsel for the plaintiff has clarified that she was working online and she has no details of the projects on which she



had worked with him. She also submits that she is not in contact with these witnesses and does not have their present address.

7. Likewise, Ms. Meera Sharath Chandra is a witness with whom the plaintiff had worked after termination from the defendant-Company. The best case of the plaintiff is that the plaintiff wants to establish her professional conduct in the defendant-Company while she was in their employment. The plaintiff has not been able to give any justified explanation for examination of these two witnesses. In so far as the requirement of creative blog for advertising professionals is concerned, she has already examined PW-2. Repeat evidence would not in any way enhance or strengthen the case of the plaintiff.

8. Accordingly, there is not merit in the present application, the same is hereby dismissed.

CS(OS) 2209/2006

List before the Joint Registrar for recording of evidence on 10th October, 2022.

NEENA BANSAL KRISHNA, J

AUGUST 30, 2022
S.Sharma