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

+ **CS(OS) 2626/2008 with I.A. 15537/2008, I.A. 2024/2009,
I.A. 3163/2016, I.A. 3381/2016, I.A. 12780/2016 & I.A.
13682/2016**

M/S HANSRAJ GUPTA & CO. PVT. LTD Plaintiff
Through: Mr. Suhail Dutt, Senior Advocate
with Mr.Sujoy Kumar & Mr.Azhar
Alam, Advocates.

versus

SH. SHIV RAJ GUPTA Defendant
Through: Mr. Jayant Mehta, Mr.Ankur
Mahindro & Ms.Megha Agarwal,
Advocates.

+ **CS(OS) 915/2009 & CCP(O) 69/2016**
SHRI SHIVRAJ GUPTA AND ANOTHER Plaintiffs
Through: Mr. Jayant Mehta, Mr.Ankur
Mahindro & Ms.Megha Agarwal,
Advocates.

versus

HANSRAJ GUPTA & CO. PVT. LTD. Defendant
Through: Mr. Suhail Dutt, Senior Advocate
with Mr.Sujoy Kumar & Mr.Azhar
Alam, Advocates.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **16.09.2019**

**I.A. 3677/2016 (Application under Order XII Rule 6 of the CPC for
judgment on admission) IN CS(OS) 2626/2008**

1. I have heard Mr. Suhail Dutt, learned Senior Counsel for the
plaintiff at length. Mr. Jayant Mehta, appearing for the defendant, at the

CS(OS) 2626/2008 & Other Connected Matter

Page 1 of 2



commencement of his arguments seeks to place on record a convenience compilation containing pleadings/orders/awards in other litigations between the parties, which according to him defeats the plaintiff's case for judgment upon admission.

2. By an order dated 02.09.2019, it had been recorded that the defendant may incorporate reference to pleadings in other litigation between the parties in affidavits of evidence to be filed by the witnesses on his behalf. The affidavit of evidence has not yet been filed. Mr. Mehta states that these are amongst the documents which he will seek to prove through those witnesses, subject to the objections that may be taken by counsel for the plaintiff in accordance with law.

3. Notwithstanding the order dated 02.09.2019, it is not permissible for the defendant to rely upon the documents that are not on the record of this suit and have not even been adverted to in his reply to the application filed by the plaintiff.

4. The defendant is consequently given an opportunity to file an additional affidavit in this application subject to payment of costs of ₹50,000/- to the plaintiff. The plaintiff may file a rejoinder, thereto without prejudice to its contention that the documents cannot be taken on record in this application.

5. List on 14.11.2019.

PRATEEK JALAN, J

SEPTEMBER 16, 2019

'pv' /s