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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 1312/2007

UJJAL S. MAKKER

.....Plaintiff

Through: Mr. Rahul Sharma, Ms. Jyoti
Dutt Sharma & Mr. Manikant
Sharma, Advs. (joined through
VC) with Mr. Mani Kant, Adv.
(physically)

versus

KAVAL BAJAJ & ORS

.....Defendants

Through: Ms. Laxmi Sharma, Adv. for D-1
Mr. Soin Khan, Adv. (joined
through VC) with Mr. Shivam
Gupta, Adv. (physically) for D-3

CORAM:

**JOINT REGISTRAR (JUDICIAL) MS. PRIYA
MAHENDRA, (DHJS)**

ORDER

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20.01.2025

**I.A.No.1137/2023 (under Order XI Rule 12 & 14 CPC
filed by the plaintiff)**

1. Pleadings are already complete.
2. It is stated by learned counsel for the plaintiff that the defendant no.3 has not complied the order dated 05.11.2024 as neither the cost has been paid by defendant no.3 nor he has filed fresh additional Affidavit in terms of para no.11 of order dated 05.11.2024 passed by this court.
3. At this stage, learned counsel for the defendant no.3 has brought my attention to orders dated 28.11.2024 & 18.12.2024 passed in CS(OS) 266/2020 to justify his non-compliance of the last order dated 05.11.2024. However, when it is pointed out to learned counsel for the defendant no.3 that no modification of order dated 05.11.2024 has been ordered by the Hon'ble Court in the proceedings of CS(OS) 266/2020 which are stated to be



connected with the present proceedings, he submits that he may be granted ten days' time to comply the order dated 05.11.2024.

4. The same is strongly opposed by learned counsel for the plaintiff. It is vehemently argued by learned counsel for the plaintiff that defendant no.1&3 are acting in collusion with each other. The suit bearing No.CS(OS) 266/2020 filed by the plaintiff/defendant no.3 herein Sh. Sudhir Dhingra, was decreed on the basis of alleged settlement entered into between the plaintiff Sh. Sudhir Dhingra/defendant no.3 and Kaval Bajaj/defendant no.1 herein. He also submits that collusion between defendant no.1 and defendant no.3 was exposed by the plaintiff on the last date of hearing before this court i.e. 05.11.2024. He further submits that the last order came to be passed by this court after observing that defendant no.3 has not come to this court with clean hands. He also submits that the legal rights of the plaintiff are compromised substantially due to clear collusion between defendant no.1&3. He also points out that after the order dated 05.11.2024 passed by this court asking the defendant no.3 to file Additional Affidavit, the plaintiff in CS(OS) 266/2020/defendant no.3 reopened the proceedings of CS(OS) 266/2020 after four years of disposal and submitted before the Hon'ble Court that the settlement amount paid through cheque has not been encashed by him. He submits that due to malafide conduct of defendant no.3, this suit is getting unnecessarily delayed. So, he strongly opposed today's adjournment.

5. I have carefully considered the submissions and perused the record. It is conceded by learned counsel for



the defendant no.3 that the order dated 05.11.2024 has not been complied by defendant no.3 for which no sufficient explanation is furnished by learned counsel for the defendant no.3. In these circumstances, the defendant no.3 is directed to pay previous cost of Rs.50,000/- to learned counsel for the plaintiff and also deposit previous cost of Rs.3000/- with Delhi High Court Legal Services Committee as imposed vide order dated 05.11.2024 within a week and file its proof of cost with the registry, failing which the defendant no.3 will pay further cost of Rs.10,000/- to the plaintiff.

6. The Order dated 28.11.2024 passed in CS(OS) 266/2020 reveals that there is a typographical error in the order dated 05.11.2024 passed by this court and the figure of amount of Rs.7.50 crores in para no.11 of said order be read as Rs.7.15 crores.

7. Further, as per the said order dated 05.11.2024, the defendant no.3 was directed to file additional affidavit as to whom and when the possession of the suit property has been handed over in compliance of Settlement in question and also reasons for non encashment of cheque of Rs.7.15 crores dated 21.09.2020 by the defendant no.3, within ten days with copy to the plaintiff. The defendant no.3 was also directed to file the Communication mentioned at Sr. No.1 of reply. No plausible explanation is furnished by learned counsel for the defendant no.3 for not filing the same till date. The proceedings in CS(OS) 266/2020 only reflects that now defendant no.1 has proposed to pay the settlement amount to the defendant no.3. It be also noted that the present matter is pending disposal since the year



2007 and the defaulting party is bound to give the sufficient reasons for non-compliance of the order passed by this court. So, cost of Rs.10,000/- is imposed upon the defendant no.3 to be paid to the plaintiff within a week. Now, the defendant no.3 is directed to file additional affidavit and Communication mentioned at Sr. No.1 of reply in terms of order dated 05.11.2024 within one week with copy to the opposite side as a last and final opportunity, failing which exemplary cost will be imposed upon defendant no.3.

8. Re-notify the captioned IA for arguments on the next date of hearing.

IA No.13310/2022 (for passing of Preliminary Decree and for directions filed by defendant no.1)

9. Pleadings are already complete.

10. Re-notify the captioned IA on the next date of hearing.

CS(OS) 1312/2007

11. It is stated by learned counsel for the plaintiff that he has deposited the previous cost of Rs.3000/-. He is directed to file proof of cost with the registry within one week.

12. As per office note, Amended Memo of Parties filed by the plaintiff is lying under objections. Learned counsel for the plaintiff is directed to take requisite steps to bring the same on record.

13. It is stated by learned counsel for the plaintiff that he has filed the Death Certificate of deceased defendant no.2. The same is on record. He submits that he could not file the Death Certificate of deceased defendant no.2 earlier as he has received the same from learned counsel for the defendant no.1 only in the month of November, 2024.



Further, the mother of learned counsel has unfortunately expired in the month of December, 2024 after her ill health. He submits that in view of the same, he could not take steps timely for bringing on record the impleadment application of LR of D-2 but now he has filed an application seeking condonation of delay in filing the said impleadment application qua LR of D-2 three days back. However, neither the impleadment application qua LR of D-2 nor condonation of delay application qua impleadment application is on record. Learned counsel for the plaintiff is directed to take requisite steps to bring the same on record.

14. Re-notify the matter for further proceedings on 07.04.2025.

PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)
JANUARY 20, 2025/ab

Click here to check corrigendum, if any