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

+ **CS(OS) 1845/2011,**

YUDHBIR MALIK & ORS

.....Plaintiffs

Through: Mr. Arvind Kr. Gupta, Mr.
Abhiesumat Gupta, Mr. Arun
Bhattacharya, Advocates.

versus

RANBIR SINGH & ORS

.....Defendants

Through: Mr. O.P. Gehlaut, Mr. Prashant
Malik, Mr. Mohd. Irshad, Advocates
for Defendant Nos.2 to 5

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

20.02.2025

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I.A. 31936/2024

1. This is an application under Order XVIII Rule 2 of the CPC, 1908 read with Section 65 and 66 of Indian Evidence Act, 1872, has been filed by the Defendant No.5 to mark documents mentioned in Paragraph Nos.2 and 3 in the said application and permission to file secondary evidence for such of those documents for which prayer is also been made under Section 65 and 66 of Indian Evidence Act.

2. The documents which are mentioned in Paragraph No.2 are as under:

2. *Copies of the undernoted documents were filed along with the written statement of the defendants. However, certified copies of these are being filed now as the same were not available then. After great efforts these were subsequently traced from the records of their earlier advocate, Late sh. Mahipal Singh, since deceased.*



Copies filed in W.S are in fact photocopies of these certified copies.

- a) Notices dated 25.11.1993 for appearance on 03.12.1993 annexed as **Exhibit DW1/3***
- b) Notices dated 31.10.1994 for appearance on 17.11.1994 annexed as **Exhibit DW1/4***
- c) Notice for appearance on 16.03.1998 is annexed as **Exhibit DW1/5***
- d) Financial Commissioner's (Delhi) order dated 27.08.1999 is annexed as **Exhibit DW1/6***
- e) Patwari's report dated 12.08.1993 annexed as **Exhibit DW1/1***
- f) Patwari's report dated 26.10.1993 (Both of patwari reports are written front and back on the same paper), along with English translation of both the reports are annexed as **Exhibit DW1/2***

3. The documents which are mentioned in Paragraph No.3 are as under:

3. Besides the above, the following documents, facts contained in which have been mentioned in the W.S and plaintiffs' replication/evidence are being filed now for the reasons stated for each.

- a) Delhi Govt's notification dated 04.02.2011 regarding fixation of rates of land as downloaded from govt. website viz www.revenue.delhi.gov.in. PW-1 in his cross-examination dated 05.10.2018 said that he did not know about the circle rates of land in Lardora or outside during 2011, and defendants have questioned their valuation in their W.S. Copy of the notification dated 04.02.2011 is annexed as **Exhibit DW1/10***
- b) Copy of Municipal License No.155 of 1990. The factum of running a factory has been given in the statement. Since, original was surrendered as per Govt. policy in the non-confirming areas, it is duly compared copy of that and hereby annexed as **Exhibit DW1/9**. Secondary evidence of the same may thus be permitted.*
- c) Certified copy of M.C.D Tribunal's order dated 05.03.2003, existence of which has been admitted by the Plaintiff's in Para 8 of their Replication. This was untraceable earlier but has been traced only now, as it was mixed up with the case file pertaining*



*to the case U/s 81 of the Delhi Land Reforms Act handled by another advocate. The same is annexed as **Exhibit DW1/7***

*d) Certified copies of court orders dated 08.02.2018 and 12.03.2018 with statement of PW-1 dated 12.03.2018 regarding withdrawal of Suit No.238/2009, later on converted to Suit No. 7252/2016 as has been admitted by PW-1 in his cross-examination on 05.10.2018. The same is annexed as **Exhibit DW1/8***

*e) Copies of papers pertaining to transfer of rights in about 250 Sq. Yds. of land by Sh. Lakhi Ram that he possessed on partition. These are collectively marked as **Exhibit DW1/11**. These documents were asked for from plaintiff vide I.A No. 17590/2011 filed by the Defendants U/s 30 of the CPC. The Plaintiffs in their reply dated 05.10.2018 stated that they do not have copy of the sale agreements, etc pertaining to this land with them. Plaintiff's admission of this sale may be seen in Para 8 of their Replication.*

4. In the reply to the said application the Plaintiffs have stated that they have no objections in the marking of the documents given in the Paragraph No.2. However, they have objections for documents under Paragraph No.3.

5. In Paragraph No.3 documents mentioned in Item No.b and Item No.c are certified copies of the orders of Courts and Tribunals.

6. Section 74 of the Bharatiya Sakshya Adhiniyam which corresponds to Section 74 and 75 of the Evidence Act states that the documents forming acts and records of judicial authorities are public documents. Since, they are public documents for which secondary evidence can be permitted, this Court does not find any impediment in marking those documents more so when they have been mentioned in the amended written statement. As far as document mentioned at Nos.a, b and e are concerned, learned Counsel for the Defendant states that as far as Secondary evidence is concerned, the requisites of Section 64 of the Bhartiay Sakshya Adhiniyam regarding notice



of production of the documents have been given by the Defendants.

7. In the interest of justice, the Defendants are permitted to file secondary evidence.

8. Put for admission/denial of the said documents. In case the Plaintiff denies those documents it shall be proved in a manner known to law by the Defendants.

9. The application stands disposed of.

10. List before Ld. Joint Registrar on 19.03.2025.

SUBRAMONIUM PRASAD, J

FEBRUARY 20, 2025

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