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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(OS) 289/2018**
DR. ASHWINI JAIN

..... Plaintiff

Through: None.

versus

DR. LOKESH JAIN & ORS

..... Defendant

Through: None.

CORAM:
SH. VIJAY SHANKAR (DHJS), JOINT REGISTRAR
(JUDICIAL)

ORDER
% **05.02.2020**

I.A.No.7623/2019 under Chapter 7 of the Delhi High Court (Original Side) Rules, 2018 r/w Section 151 CPC filed on behalf of the defendants for directions to the Joint Registrar for exhibiting the documents filed by the defendants along with the written statement

By way of present order, I shall dispose of application of the defendants under Chapter 7 of the Delhi High Court (Original Side) Rules, 2018 r/w Section 151 CPC. In the present application, the defendants have prayed to exhibit the documents filed by the defendants along with the written statement.

Brief facts necessary for just adjudication of the present application, as stated in the application, are that the plaintiff did not file replication within 30 days as required under Rule 5 of Chapter 7 of the Delhi High Court (Original Side) Rules, 2018 and the Rule

further requires that the Court may extend the time for filing the same by a further period not exceeding 15 days but not thereafter. On 27/11/2018, the Hon'ble Court granted further 15 days to file replication. Admittedly, the rejoinder was filed only on 26/02/2019. The plaintiff along with replication did not file affidavit of admission/denial of the documents filed by the defendants. Thus, the replication does not form part of the record of the suit as it has not been filed within the time permitted by the Rules and also within the extended time granted by the Hon'ble Court and also no affidavit of admission/denial of the defendants' documents has been filed. Rule 7 of Chapter 7 provides that in case, the plaintiff fails to file the affidavit, the documents filed by the defendant shall be deemed to be admitted and the Registrar has been given the responsibility that he shall exhibit the documents admitted by the parties. Therefore, it is necessary that the documents of the defendants deemed to be admitted be given exhibit marks.

Counsel for the defendants, in support of his contentions, has relied upon the judgment titled as "*Unilin Beheer B.V. V. Balaji Action Buildwell (CS (COMM) 1683/2016 & CC (COMM) 38/2018 date of decision 15/05/2019&09/04/2019 passed by Hon'ble Delhi High Court)*".

The plaintiff has contested the present application by filing detailed reply wherein he denied the contents of the application and prayed for dismissal of the same with cost. It is stated by the plaintiff in the reply that the certain documents are not available in original

and the documents, which the defendants are trying to get exhibited do not relate to the plaintiff as the documents have never been admitted by the plaintiff. In the application, the defendants nowhere stated as to what are the documents, which they wish to get exhibited.

Arguments already heard on the aforesaid application of the defendants. Perused the material available on record.

The plaintiff has filed the present suit for partition, declaration and permanent injunction against the defendants. By way of present application, the defendants have prayed for exhibiting/marketing of the documents of the defendants as deemed to be admitted as no affidavit of admission/denial of the documents has been filed by the plaintiff.

Vide order dated 27/11/2018, liberty was granted to the plaintiff to file replication within 15 days but the plaintiff has filed the replication on 26/02/2019. In the present case, issues were framed on 27/11/2018. Plaintiff's evidence has already been concluded and cross-examination of DW-1 is going on before the learned Local Commissioner. In the present case, admission/denial of the documents has not been conducted.

As per Chapter 7 Rule 7 of Delhi High Court (Original Side) Rules, 2018, in case, the plaintiff fails to file the affidavit of admission/denial of the documents, the documents filed by the defendant shall be deemed to be admitted and the Court or the Registrar, as the case may be, shall exhibit the documents admitted by the parties.

It is admitted fact that affidavit of admission/denial of the documents of the defendants has not been filed by the plaintiff in the present case. Admittedly, the documents of the defendants have already been exhibited as Ex. DW1/1 to Ex. DW1/11 during the examination-in-chief of DW-1. It is well settled law that putting mark/exhibit upon the document is merely for the purpose of identification of the documents. By way of present application, the defendants have only prayed for exhibition of the documents as deemed to be admitted. Since, the documents of the defendants have already been exhibited during the examination-in-chief of DW-1, then at this stage, there is no need to give separate exhibit number to the same. The consequences of non-filing the affidavit of admission/denial of the defendants' documents by the plaintiff shall follow as per Delhi High Court (Original Side) Rules, 2018.

Considering the facts, circumstances and in view of the aforesaid observations, the aforesaid application of the defendants is disposed of accordingly.

CS(OS) 289/2018

The matter is already listed before the Hon'ble Court on 13/02/2020.

List the matter before the Hon'ble Court for further directions on the date already fixed i.e., **13th February, 2020.**

**VIJAY SHANKAR (DHJS)
JOINT REGISTRAR (JUDICIAL)**

FEBRUARY 05, 2020/nk