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

+ **CS (OS) 295/2018 and I.A. 7999/2018**

RAKESH KUMAR & ANR

..... Plaintiffs

Through: Mr. T.K. Ganju, Sr. Advocate with
Mr. Varun Tyagi, Advocate (M:
9811087440).

versus

BANK OF MAHARASHTRA

..... Defendant

Through: Mr. Saran Suri, Mr. Roshan Kumar
and Mr. Shobhit Sharma, Advocates
(M: 9958248784).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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13.08.2019

I.A. 11019/2019 (exemption)

1. Allowed, subject to all just exceptions. I.A. is disposed of.

I.A. 11018/2019 (for modification of order dated 10.05.2019)

2. This is an application seeking modification of order dated 10th May, 2019 and seeking waiver of costs of Rs.25,000/-. It is noticed that the costs were imposed on the Bank, as, despite repeated orders, the details of the rent and the TDS certificates were not forthcoming by the Bank. Even today, the Court was willing to sympathetically consider the issue, however, the affidavit which has been filed is still not fully compliant with the orders requiring the details of the TDS certificates. Paragraph 4 of the affidavit reads as under:-

“4. That the Defendant Bank has over the years been deducting the TDS against the rent paid in the name of



Smt. Saroj Marwah. As per record available no certificates were issued to her in respect to the TDS deposited by the bank towards payments in view of the said details being available online.”

3. From the above paragraph, it is not clear as to whether:-
 - (a) Any TDS has been deducted towards the rent which is being adjusted either in the name of the Plaintiff or in the name of Smt. Saroj Marwah.
 - (b) Whether any TDS was in fact deposited with the Government in respect of the rent adjusted.
 - (c) Whether any TDS certificates were generated and were given to either of the parties.
4. The details given by the Bank in the affidavit dated 9th May, 2019 are totally cryptic. They do not contain any details. Last and final opportunity is given to the Bank to file the relevant details before this Court in respect of the issues raised above.
5. The I.A is dismissed. Let the costs be paid within ten days.

CS (OS) 295/2018 & I.A. 7999/2018 (u/O XV A read with section 151)

6. Ld. counsel for the Defendants submit that there is an issue in respect of the title of the property as the Plaintiff has allegedly purchased the property while the properties stood mortgaged with the Bank in respect of a loan extended to the erstwhile owners and even the lease rentals were, in fact, assigned to the Bank. The affidavit to be filed shall also contain the details of all the proceedings pending between the parties in respect of the suit property. Let the affidavit be filed within two weeks. The Bank shall henceforth deposit the monthly rental amount with the Registrar General of this Court on or before the 10th of every month. The same shall be deposited



after deducting TDS and copies of the TDS certificates shall also be filed on a quarterly basis in these proceedings.

7. Ld. Counsel for the Plaintiff submits that the loan account has been settled long back and despite the same, adjustments are being made and rental is not being paid to the Plaintiffs. The statement of account of Smt. Saroj Marwah and M/s. Bitum Impex in respect of their respective loan accounts and the payments adjusted, be filed on record.

8. Smt. Saroj Marwah is impleaded as Defendant No.2 in the present case. Let the summons and notice be issued to her directly and through counsel who appeared on 18th March, 2019. The amended memo of parties be filed within ten days.

9. The Defendant is stated to have filed an application under Order VII Rule 11 CPC vide diary no.773081. Let the I.A be registered. Let the reply be filed within two weeks. Rejoinder, if any, be filed within two weeks thereafter.

10. All the pending applications be listed for hearing on the next date.

11. List on 1st November, 2019.

PRATHIBA M. SINGH, J.

AUGUST 13, 2019
MR