

\$~8

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

+ **CS(OS) 317/2018**

SMT. MANJU GAIND Plaintiff

Through: Mr.Ajay Gaind & Mr.Abhay
Gaind, Advocates

versus

SMT. KAMLA RANI & ORS Defendants

Through: Mr.Rajesh Bhardwaj, Mr.Ajay
Tejpal & Mr.Kuwar Dhan Sharma,
Advocates for D-1 to D-5.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **27.02.2020**

I.A.16496/2018 (under Section 151 of the CPC r/w 26 of Contempt of Court Act)

1. By an order dated 03.12.2018 in I.A.16496-16498/2018, the Court directed as follows:

“Reply to these applications be filed within three weeks. Rejoinder thereto, if any, within two weeks thereafter.

It is submitted by Mr. Gaind, learned counsel for Plaintiff that on 29th August, 2018, an equitable mortgage was created in one of the properties. However, this is refuted by learned counsel for Defendants, on the ground that there was an equitable, mortgage, which was only renewed by the Bank but the mortgage itself was in existence since 2016. Statement made by learned counsel for Defendants, that they would not create any third party interest in respect of the immovable properties, is taken on record.

The bank statements of all bank accounts mentioned in the Schedule, including that of Smt. Kamla Rani for the last four years shall be placed on record. List on the date already fixed i.e. 30th January, 2019.”

2. Learned counsel for the plaintiff states that the bank statements of all the bank accounts mentioned in the application, including that of Smt.Kamla Rani, have not been filed. Although there is no schedule in the application, it is undisputed that the entities whose bank accounts were directed to be disclosed are enumerated in paragraph 5 of the I.A.16498/2018. Learned counsel for the defendant Nos. 1 to 5 states that he has filed the accounts in respect of the entities who are party to the present suit. In view of the fact that the disclosure sought was also with regard to the parties who are not arrayed in the suit, learned counsel for the defendants states that he has not filed the accounts of those parties. This question will be considered at the appropriate time.

3. However, it is also undisputed that even in respect of the parties who are defendants in this suit, copies of all bank statements have not been filed. There is no justification for partial compliance of the order dated 03.12.2018. None of the entities mentioned in the applications, including the defendants, have filed any application for review/clarification/modification of the said order, nor has the order been challenged in appeal by any party. In these circumstances, the parties to the suit, at the very least, must comply with the order dated 03.12.2018 in respect of their bank accounts. Learned counsel for defendant Nos.1 to 5 states that the affidavit and bank statements in respect of all the bank accounts of the defendants to the suit will be filed within four weeks.

4. List on 19.05.2020.

I.A.16497/2018 (under Chapter I Rule 6 & Chapter IV Rule 3 of Delhi High Court Rules, 2018, r/w Section 151 of the CPC)

It is undisputed that the delay in filing the written statement has been condoned.

In that view of the matter, Mr.Ajay Gaiind, learned counsel for the plaintiff, does not press this application, and the same is dismissed.

I.A.2787/2020 (delay)

1. Issue notice. Learned counsel for the defendants accepts notice, and consents to the application being taken up for disposal.
2. This is an application for condonation of delay in re-filing of a rejoinder and documents in I.A.16496/2018. It is apparent therefrom that the rejoinder and the documents were filed originally on 24.01.2019 but remained under objections as the rejoinder and the documents were required to be filed under separate indices. The defects have been rectified after some delay.
3. In view of the averments contained in the application, it is allowed and the delay in filing of rejoinder and documents in I.A.16496/2018 is condoned.
4. The application is disposed of.

CS(OS) 317/2018 with I.A.16094/2018, I.A.16498/2018, I.A. 17781/2018, I.A.1420-1422/2019, I.A. 4467/2019, I.A.7919/2019 & I.A.2787/2020

List on 19.05.2020.

PRATEEK JALAN, J

FEBRUARY 27, 2020

'hkaur' /s