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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 264/2016

MR NARENDER KUMAR

..... Plaintiff

Through: Mr. Hemant Chaudhri & Mr.
Shaurya Pushpam, Advs.
(Mob.9810035336)

versus

MRS RAJ RANI MITTAL & ORS

..... Defendants

Through: Mr. Aman Gupta, proxy cl. for
D-1 to 3
Mr. Akhil Gupta, proxy cl. for
LRs of D-4 (Mob.981185046)

CORAM:

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

ORDER

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21.11.2022

CS(OS) 264/2016

The matter is listed for further PE.

One summoned witness, who is mentioned at Sr. No.4 in the list of witnesses already filed by the plaintiff, i.e. Mr. Sandeep Sagar (Mob.9013850208), Inspector of Income Tax, Ward No.47(1), Office of Principle Commissioner of Income Tax-10, New Delhi is present. Reply to Show Cause Notice issued under Order XVI R 12 CPC is placed on record by Income Tax Officer, Ward 47(1), New Delhi.

At this stage, it is stated by learned counsel for the plaintiff that he has summoned complete record of Income Tax Returns (ITR) filed by Mr. Narender Kumar/plaintiff for the Assessment Years 1998-99 to 2007-08.

As per reply filed by Income Tax Officer, no ITR for the Assessment Years i.e. 1998-99 to 2007-08 is available as per e-filing portal. It is submitted by learned counsel for the plaintiff that Income Tax Returns were



physically filed in the court in question and no reply, whatsoever, has been given nor any record has been produced in respect of physical filing/record of the ITRs of the plaintiff for the Assessment years in question.

In view of submission made, the said summoned witness Mr. Sandeep Sagar is bound down to appear in court with complete record on the next date of hearing. It is clarified that in case summoned records are not available, he may produce/bring written explanation/report, alongwith relevant circular/notification, on the next date of hearing. The Show Cause Notice issued under Order 16 Rule 12 CPC is kept pending in the meantime.

Another summoned witness, who is mentioned at Sr. No.5 in the list of witnesses already filed by the plaintiff, i.e. Ms. Sujata P Kaul (Mob.9811747170), GST Inspector, Department of Trade & Taxes, IP Estate, GNCTD, Delhi is also present and has produced a Reply of GSTO/Proper Officer, Ward-95. As per which, the summoned record comes under the category "C" which includes files of secondary importance having reference value for a limited period not exceeding 10 years. It is stated that the summoned records pertain to the year 1985 to 2005. Hence, no records in respect of concerned dealer is available in the Ward-95. At this stage, it is pointed by learned counsel for the plaintiff that in reply, it is not specifically stated that summoned records for the relevant period, has already been destroyed without preserving any soft copy/e-copy of the same.

Accordingly, the said summoned witness Ms. Sujata P. Kaul is also bound down to appear in the court on the



next date of hearing and requested to get clarification in this regard and file Additional Reply/produce the record on the next date of hearing.

As per record, witness no.6, as per list of witnesses already filed by the plaintiff, i.e. Public Information Officer, Sub-Registrar-III, Asaf Ali Road, Delhi, is un-served with report that there is no PIO available in the said office. Learned counsel for the plaintiff submits that he will do the needful in this regard and will move appropriate application shortly. Let needful be done as stated.

Re-notify the matter for further PE on 31.01.2023.

PRIYA MAHENDRA (DHJS)
JOINT REGISTRAR (JUDICIAL)
NOVEMBER 21, 2022/ab
Click here to check corrigendum, if any