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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CS(OS) 3083/2014
 SHAKTI NATH

..... Plaintiff

Through:

versus

SHASHI MOHAN CHATURVEDI AND ORS

..... Defendants

Through: Mr.G.D. Chopra & Mr. Kran Nagrath,
 Advs. for D1 to D4.

CORAM:
MS. DEEPALI SHARMA (DHJS), JOINT REGISTRAR
(JUDICIAL)

% **ORDER**
 08.08.2017

I.A. No.7699/2017 under Order 16 Rule 1 filed by the defendant.

Rejoinder has been filed by the defendant.

The instant I.A. has been moved by the defendant for summoning the witnesses as mentioned in para 4 of the application. It is stated by the defendant that earlier the defendant had moved I.A. No.795/2017 for summoning of the witnesses to bring the record as mentioned therein. The said application was allowed vide order dated 19.01.2017.

It is stated that pursuant thereto when the witnesses appeared with the record, they apprised the court that the documents as indicated in the application/summoned record could not be produced by them before court as

the said documents were not available with their department and were stated to be available with the departments indicated in the present application.

It is accordingly prayed that the defendant be permitted to summon the witnesses mentioned in para 4 of the present application along with the documents mentioned therein.

Counsel for the plaintiff has objected to the application on the ground that the defendant has filed a similar application earlier seeking summoning of the same documents which it seeks to summon by way of the present application and, therefore, the application ought to be dismissed. However, the present application has been filed by the defendant as the documents sought to be summoned were not available with the departments whose witness was summoned in the earlier application, and were stated to be available with the departments mentioned in the present application, therefore, the contentions of the plaintiff in this regard is without substance.

It is further stated that the defendant by way of the present application is seeking to bring on record the additional documents which were never placed on record by the defendant at an earlier stage. In this regard it is relevant to note that I.A. No.795/2017 was allowed by the Ld. Predecessor on 19.01.2017. The said application also mentioned all the documents sought to be summoned by the official witnesses. It is not the case of the plaintiff that the defendant is seeking to summon any further documents which were not mentioned in I.A. No.795/2017. The said order dated 19.01.2017 has not been challenged by the plaintiff and, therefore, has attained finality and the plaintiff cannot, therefore, be permitted to raise an issue which has attained finality.

In view of the aforesaid, the instant application filed by the defendant

stands allowed. The defendant is permitted to summon the witnesses mentioned in para 4 of the application along with the documents mentioned therein on filing of PF and deposit of diet money returnable for the next date of hearing. Steps to be taken within one week.

List for defendant's evidence on 31.08.2017, date already fixed.

DEEPALI SHARMA (DHJS)
JOINT REGISTRAR (JUDICIAL)

AUGUST 08, 2017/na