

\$~13

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

+ **CS(OS) 1101/2015**

SUBHASH SALUJA Plaintiff

Through: Mr. D. V. Khatri, Advocate

versus

CHANDRA SHEKHAR & ORS Defendants

Through: Mr. Rohit Sharma, Advocate with
Mr. Atul Agarwal, Mr. Rounak
Nayak, Advocates for D-1 and 2
Mr. Vinod Tyagi, Advocate for D-
3

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **11.02.2020**

1. By the order dated 17.09.2019, the application of the plaintiff for permission to file additional documents (I.A.6585/2019) was partially allowed. The relevant extracts of the said order, by which the plaintiff was permitted to place certain additional documents on record, are reproduced below:-

“2. The first document sought to be placed on record is a report of the Forensic Science Laboratory dated 11.08.2016. Learned counsel for the defendants admits that this document was not in the power and possession of the plaintiff at the time of filing of the list of documents. Consequently, the plaintiff is permitted to file the said document as an additional document.

The plaintiff also seeks to place on record the bank statements of the plaintiff's account bearing No.038-2000000003840 with Nainital Bank Limited, Lajpat Nagar

CS(OS) 1101/2015

page 1 of 5

Branch and account No.36985155935 with State Bank of India, Central Market, Lajpat Nagar for the years from 2010-11 to 2015-16. The plaintiff further seeks to place on record bank statements of the bank account of his wife Smt. Geeta Saluja bearing No.038-2000000004553 with Nainital Bank Limited, Lajpat Nagar Branch, for the period from 2012-13 to 2015-16. It is stated that these documents were not filed along with the list of documents due to inadvertence/oversight and are required to establish the plaintiffs readiness and willingness to purchase the property in question.

XXXX

XXXX

XXXX

5. It is directed that the bank statements of the above mentioned accounts for the period mentioned therein may be filed as additional documents by the plaintiff, subject to payment of costs of ₹30,000/-, of which ₹10,000/-shall be paid to each of the defendants.

XXXX

XXXX

XXXX

9. Consequently, the application is allowed to the extent that the report of the Forensic Science Laboratory dated 11.08.2016 and the bank account statements mentioned in paragraph 4 above may be filed as additional documents by the plaintiff.”

2. Certain other documents which the plaintiff had also sought to place on record, were disallowed.
3. The reference in paragraph 9 of the aforesaid order to “paragraph 4” is clearly a typographical error, as the details of the bank account statements have, in fact, been mentioned in paragraph 3 of the order.
4. The aforesaid order was carried in appeal by the plaintiff in FAO(OS)215/2019, but the Division Bench, by an order dated 06.11.2019, permitted the plaintiff to withdraw the appeal.

5. Subsequent to the aforesaid order, the plaintiff has sought to place on record two sets of documents, filed vide diary No.149115, dated 04.02.2020, and diary No. 172357, dated 05.02.2020. With regard to the documents filed under diary No. 129115, certified copies of certain documents have been placed on record, copies whereof are already on record. The certified copy of the report of Forensic Science Laboratory dated 11.08.2016 has also been filed. There is no dispute with regard to these documents.

6. As far as the bank statements are concerned, filed under diary No. 172357, the statement of account No.0382000000003840, being the plaintiff's account with Nainital Bank Limited, has been filed from 05.04.2010 to 03.02.2020. Similarly, the statement of account No.0382000000004553, held by the plaintiff's wife with Nainital Bank Limited, has been filed for the period from 22.04.2010 to 01.02.2020.

7. Mr. Rohit Sharma, learned counsel for the defendants, objects to the filing of these documents on the ground that the bank statements are for a period which is far in excess of the period permitted by the order of this Court.

8. Mr. D. V. Khatri, learned counsel for the plaintiff, submits that the plaintiff's application was for filing of bank statements of the plaintiff's accounts for the period 2010-11 to 2015-16 "onwards", and his wife's bank account for the period of 2012-2013 to 2015-16 "onwards". He submits that, on a proper reading of the order dated 17.09.2019, the plaintiff was permitted to file the up-to-date bank statements of the aforesaid accounts.

9. I do not agree with the interpretation of the order placed by Mr. Khatri. It is clear from paragraph 3 of the order that the statements were permitted to be filed for a limited period – the starting date and the end date are both mentioned in the order itself. No party can be permitted to file additional documents without the leave of the Court. The attempt of the plaintiff to file bank statements for a period beyond the period permitted by this Court was, at the very least, a misreading of the order.

10. The documents filed by the plaintiff after passing of the order dated 17.09.2019, in fact, are even in excess of those that he had filed alongwith the application. At the time the application was filed, the additional documents sought to be brought on record were filed alongwith an index dated 25.04.2019. The statement of the plaintiff's bank account filed therewith was for a period from 01.04.2010 to 31.12.2012, 01.11.2012 to 20.02.2013, 01.11.2013 to 31.12.2016, and 01.11.2018 to 30.01.2019, and for his wife's account from 01.11.2012 to 20.02.2013 and 01.11.2018 to 30.01.2019.

11. At this stage, Mr. Khatri requests that the bank statements which had been placed on record alongwith the application be permitted to be taken on record. As the bank statements of the plaintiff and his wife for the additional period may also be relevant for the plaintiff to establish his readiness and willingness to purchase the suit property, the request of Mr. Khatri is accepted, subject to payment of further costs of ₹10,000/- each, to defendant Nos.1 and 2 collectively, and to defendant No.3.

12. It is made expressly clear that what is permitted by this order is the filing of documents that were filed alongwith I.A.6585/2019, under an
CS(OS) 1101/2015

index dated 25.04.2019, confined to the two bank accounts aforementioned, i.e. for account numbers 0382000000003840 and 0382000000004553, for the periods mentioned in paragraph 10 above. In view of the fact that the documents filed on 05.02.2020 are in excess of the aforesaid documents, the plaintiff is not permitted to place those documents on record.

13. List before the Joint Registrar for fixing the schedule for recording of evidence on 16.03.2020.

14. List before the Court on 20.07.2020 for monitoring of evidence.

PRATEEK JALAN, J

FEBRUARY 11, 2020/’j’s