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

+ **CS(COMM) 1218/2018**

RAJESH ARORA & ORS. Plaintiffs

Through: Mr. Harish Malhotra, Senior Adv with
Ms. Radhika Arora & Mr. Abhishek
Gupta, Advs

versus

KAMALJEET SINGH AHLUWALIA & ORS. Defendants

Through: Mr. Preetpal Singh, Mr. Sameer
Chaudhary & Mr. Palash Agarwal, Advs

CORAM:

**SH. RAJ KUMAR TRIPATHI (DHJS), JOINT REGISTRAR
(JUDICIAL)**

ORDER

% **21.01.2020**

**IA No. 16709/2019 (u/O XI Rule 14 r/w Section 151 CPC filed by
defendants for seeking production of documents)**

By way of present application, defendant No.1 seeks direction to plaintiffs for production on oath the documents as mentioned in para No.11 of the IA. It is submitted that the documents sought to be produced are in power and possession of plaintiffs and their production is very necessary for purpose of complete and effectual disposal of all the issues that arise in the present suit. It is further submitted that defendants sent notice dated 26.10.2019 and called upon plaintiffs to produce certain documents which was duly served upon plaintiffs as well as their advocate. The plaintiffs' witness

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during his cross examination on 31.10.2019 admitted receipt of the notice and stated that he would file reply to the notice in accordance with law. The plaintiffs vide their reply dated 18.11.2019 have evasively denied to produce the documents before the Court though have admitted that most of the documents are in their power and possession. It is submitted that plaintiffs are intentionally with malafide intentions are not producing the documents before the Court because the same demolishes their false case. In support of his submissions learned counsel for defendant relied upon judgment titled as *M. Sivasamy vs Vestergaard Frandsen A/s 2010 (1) AD (Delhi) 211: 2009 (113) DRJ 820: 2010 (42) PTC 273*.

Learned Senior Counsel for plaintiffs submitted that plaintiffs' evidence has already been concluded, evidence of defendant No.1 is also complete and evidence of defendant No.3, being defendant No.2, is underway. He submitted that as per settled position of law, after evidence of a party is closed, no direction can be sought against said party to produce the documents under Order XI Rule 14 CPC and therefore, the present application filed by defendant is not maintainable. He further submitted that in the entire application, defendants have failed to mention as to why the said documents are relevant for the purposes of adjudication of the suit. He argued that issues in the case were framed on 21.05.2019 and none of the issues pertain to account books or the service tax liability of the plaintiffs. He submitted that as per the case of defendants several invoices of the plaintiffs have been paid by the defendants. However, now to seek

financial records of the plaintiffs from 2008 to 2019 is nothing but a witch hunt and a roving inquiry into the financial record of plaintiffs with the sole intention of delaying the suit proceedings. He further submitted that the documents sought by defendants are personal accounts of the plaintiffs and therefore, production of the same cannot be ordered as it would tantamount to encroachment on the privilege information of the plaintiffs. He submitted that plaintiffs are entitled to keep their business affairs and names of their associates and customers out of public domain as it may result into unwanted exposure of their business details to rival businessmen. He submitted that the application filed by defendants is absolutely misconceived and prayed to dismiss the same.

I have heard and considered the submissions advanced by learned counsel for both the parties and perused the material on record.

No reason has been given in the application how the documents sought to be produced from the plaintiffs are relevant and material for complete and effectual adjudication of matter in dispute between the parties. Parties have to stand on their own legs to prove their case. If a party fails to produce or withholds certain documents, which are necessary for proving the case, that party shall suffer the consequences.

It is matter of fact that plaintiffs have already concluded their evidence. Evidence of defendant No.1 is also complete. Evidence of defendant No.3, who is defendant No.2 in the case, is underway.

In para No.8 of the IA, the defendants have themselves stated that they have obtained certified copies of the documents, detailed in para No.8 of the IA from Registrar of Companies, New Delhi. The said documents being public documents can be proved by defendants themselves in accordance with law.

Admittedly, the defendants issued notice dated 26.10.2019 to plaintiffs to produce the documents. The plaintiffs, despite service of notice, have allegedly not produced the documents as sought to be produced by defendants. For this, adverse inference may be drawn against the plaintiffs at appropriate stage, if required.

For the reasons stated in the application, no such direction as prayed in the IA is required and called for. The application is accordingly dismissed.

IA No. 16671/2019 (u/S 45 of The Indian Evidence Act r/w Section 151 CPC filed by defendants for appropriate directions)

Pleadings in the IA are already complete.

List before Hon'ble Court on the date already fixed in the case i.e. on 30.01.2020.

**RAJ KUMAR TRIPATHI (DHJS)
JOINT REGISTRAR (JUDICIAL)**

JANUARY 21, 2020
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