

**Pawan Kumar Sharma vs. M/S Ambuja
Cements Ltd. And Anr.**

Civil Suit No. 8 of 2023

Reserved on 05.09.2024

18.09.2024 Present: Mr Nishant Khdtta, Advocate, for the plaintiff.

Mr. Neeraj Gupta, Sr. Advocate with
Mr. Vedhant Ranta, Advocate for the
defendants.

OMP No. 335 of 2024

The applicant/plaintiff has filed the present application under Order 7 Rule 14 (3) read with Section 151 of CPC for placing the original documents on record. It has been asserted that the applicant/plaintiff has filed a civil suit for declaration and recovery against the non-applicants/defendants. The applicant came to know during the admission and denial of the documents that the original documents were not placed on record. The documents are necessary for the just decision of the case. No prejudice would be caused to the other side by the production of the documents. The documents could not be placed earlier because the applicant remained

under the impression that documents could be produced at the time of recording the evidence. Therefore, it was prayed that the present application be allowed and the documents mentioned in the application be permitted to be placed on record.

2. The application was opposed by filing a reply denying the contents of the application. It was asserted that the applicant did not choose to file the original documents which were in his possession. The applicant/plaintiff had based his suit on these documents and he should have filed the original documents with the plaint at the time of the filing of the suit. No reason was assigned as to why the documents were not filed. The documents cannot be taken into consideration on the ground that the applicant was under some *bonafide* belief; therefore, it was prayed that the present application be dismissed.

3. A rejoinder denying the contents of the reply and affirming those of the application was filed.

4. I have heard Mr. Nishant Khidtta, learned counsel, for the applicant/plaintiff and Mr. Neeraj

Gupta, Sr. Advocate assisted by Mr. Vedhant Ranta, learned counsel for the non-applicants/defendants.

5. Mr. Nishant Khidtta, learned counsel for the applicant/plaintiff submitted that the documents are essential for the just decision of the case. The suit is based upon the documents and the applicant could not file the documents because he remained under a *bonafide* belief that he could produce the original documents during the examination of the witnesses. Therefore, he prayed that the present application be allowed and the documents be taken on record.

6. Mr Neeraj Gupta, learned Senior Counsel, for the non-applicant/defendants submitted that the application does not disclose any reasonable cause for not filing the documents along with the plaint. The applicant asserted that the documents are essential for the just decision of the case, therefore, they should have been produced earlier. No reasonable cause has been assigned for not producing the documents at the earliest. Therefore, he prayed that the present application be dismissed.

7. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

8. It was laid down by this Court in *Brahm Dass vs Onkar Chand 2009 (1) Shim. LC 339 = Latest HLJ 2009(1) 384 (HPHC)* that the party should be permitted to produce the documents, which could not be filed with the plaint. It was observed:

“8. The documents sought to be produced in Court by the plaintiff when the plaint is presented or to be entered in the list to be added or annexed to the plaint, however, the documents can be produced subsequently with the leave of the Court. Whether the documents are relevant or not could not be decided at the stage of considering the application under order 7 Rule 14 (3) of the Code of Civil Procedure and this question was to be determined at the stage of arguments. The learned trial Court has also misconstrued the judgment rendered by the Hon'ble Supreme Court cited in the order. There is no specific bar to produce the documents at the stage of hearing with the leave of the Court. The Court's endeavour must be to adjudicate the lis effectively and if certain documents could not be filed with the plaint until and unless serious prejudice is caused to the other side, the same must be permitted to be produced on record. The other party also gets an opportunity to rebut the evidence produced by the parties during the hearing. The Court has to exercise the jurisdiction for the production of the documents liberally.

9. It is a settled principle that opportunity should be afforded to the parties to produce their evidence and state their case before the Court. The Court has to exercise the jurisdiction in favour of the production of the evidence instead of scuttling it. The Courts should not permit the parties to indulge in dilatory tactics to stall the proceedings. The Court has discretion and generally speaking, it will be a wise exercise of the discretion to permit the production of the evidence and the question is to be decided in each case in the light of the particular circumstances.”

9. It is undisputed in the present case that the documents are relevant and the suit is based upon these documents. Thus, the production of the documents is essential. Merely because the applicant/plaintiff was under some belief that may not be reasonable is no ground to shut out the relevant evidence. The other side can always be compensated in terms of money for the delay in producing the documents but the delay cannot be used to discard the relevant evidence.

10. Thus, the present application is allowed and the applicant is permitted to produce the documents on record subject to payment of costs of ₹5000/-. The payment of costs would be a condition precedent for receiving the documents on record. The present application stands disposed of.

Civil Suit No. 8 of 2023

The additional documents in rebuttal to the documents filed by the applicants, if desired, be filed within three weeks and the matter be listed for admission and denial of the newly filed documents before the learned Additional Registrar (Judicial).

(Rakesh Kainthla)
Judge

18th September, 2024
(Nikita)