

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3308 OF 2015

OM PRAKASH RAWAT (D) THR. LRS. & ORS.

APPELLANT(s)

VERSUS

MOHARI DEVI KHANDELWAL VIASHYA MEMORIAL
CHARITABLE TRUST & ORS.

RESPONDENT(s)

O R D E R

The short question which arises in this appeal is whether the High Court was right in setting aside the order the Lower Appellate Court allowing the application filed under Order 41 Rule 27 of the Code of Civil Procedure (CPC), 1908.

The appellant was a defendant in the suit and the suit was decreed against him on 9.03.2000. An appeal was filed by Bhanwar Lal and in that appeal the appellant filed cross-objections. When the appeal was ripe for arguments, the appellant filed the application under Order 41 Rule 27 CPC to exhibit three documents, two of which are judgments rendered on 07.04.2003 and 22.08.2005. The third document sought to be exhibited was the attested copy of the objections filed by way of affidavit before the Assistant Commissioner, Devasthan Department, Jaipur Division, Jaipur.

As far as the two judgments are concerned, they came into existence after the Trial Court had decided the suit

i.e. on 09.03.2000. Therefore, these documents were not in existence at the time when the matter was decided by the Trial Court.

As far as the third document is concerned, the said document was on the file of the Trial Court, but no efforts were made to get it exhibited. The explanation given is that by mistake it was not exhibited. This cannot be accepted. The suit was filed in 1993 and there is no cogent explanation why the document was not exhibited earlier. Therefore, the third document cannot be permitted to be exhibited at this belated stage.

However, as far as the two judgments are concerned, since they came into existence after the Trial Court decided the Suit, they should be taken note of. Certified copies of these judgments are *per se* admissible in evidence and will be marked in evidence.

Learned counsel for the respondents has urged that these judgments are not relevant to decide the matter in issue.

We leave it open to the Lower Appellate Court to decide the relevancy of these judgments. We have not expressed on the relevancy of the two judgments.

We also make it clear that the Lower Appellate Court should decide the appeal on merits after considering the entire record and will not remand the matter only on the basis that these two judgments have been exhibited.

The appeal is accordingly allowed and the two judgments are allowed to be exhibited and placed on record.

.....J.
(MADAN B. LOKUR)

.....J.
(DEEPAK GUPTA)

NEW DELHI
JULY 10, 2018

ITEM NO.103

COURT NO.3

SECTION XV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s).3308/2015

OM PRAKASH RAWAT (D) THR. LRS. & ORS.

Appellant(s)

VERSUS

MOHARI DEVI KHANDELWAL VIASHYA MEMORIAL
CHARITABLE TRUST & ORS.

Respondent(s)

Date : 10-07-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Appellant(s) Mr. Abhishek Gupta, AOR

For Respondent(s) Mr. Purushottam Sharma Tripathi, AOR
Mr. Mukesh Kumar Singh, Adv.
Mr. Mohit Koushik, Adv.
Ms. Vani Vyas, Adv.
Mr. Abhishek Tripathi, Adv.
Mr. L. Nidhiram Sharma, Adv.

Mr. S. K. Bhattacharya, AOR
Mr. L.K. Paonam, Adv.
Mr. Niraj Bobby Paonam, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(KAILASH CHANDER)
COURT MASTER

(Signed order is placed on the file)