

CS NO. 3437/2018

PAWAN KUMAR VS. SMT. VEENA DHINGRA

17.08.2020

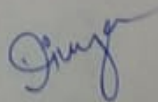
At 04:00 pm

ORDER

1. Vide this order, I shall dispose of the application under Order 7 Rule 14 (3) r/w Section 151 CPC filed on behalf of the plaintiffs.

2. Present suit is the suit for permanent and mandatory injunction filed by the plaintiffs against the defendants. In the above said application filed on behalf of plaintiff it has been stated that the plaintiff wants to bring on record the following documents and three CDs which are as follows:-

- (i) Copy of legal notice sent by the defendant through her counsel dt. 28.06.2019 to the plaintiffs for eviction.
- (ii) Copy of postal receipts.
- (iii) Copy of legal notice sent by the plaintiffs through their counsel dt. 24.07.2019 to the defendant (Veena Dhingra) for removing illegal installed counters with postal tracking report.
- (iv) Copy of legal notice sent by the plaintiffs through their counsel dt. 24.07.2019 to the defendant (Sunita Dhingra) for removing illegal installed counters with postal tracking report.
- (v) Copy of reply dt. 24.07.2019 to legal notice dt. 28.06.2019 sent by the plaintiffs through their counsel with postal tracking report.
- (vi) Copy of legal notice dt. 24.07.2019 sent by the plaintiffs through their counsel to Smt. Kamlesh for removing illegal installed counters with postal tracking report.



(vii) Copy of legal notice dt. 24.07.2019 sent by the plaintiffs through their counsel to Sh Gurcharan Singh for removing illegal installed counters with postal tracking report.

(viii) Copy of legal notice dt. 24.07.2019 sent by the plaintiffs through their counsel to Sunny @ Udit and Deepak for removing illegal installed counters with postal tracking report.

(ix) Copy of request to take action on the basis of complaint dt. 13.12.2018 sent by the plaintiffs to Addl. Deputy Commissioner, North Delhi Municipal Corporation DB Gupta Road, Anand Parbat, New Delhi with postal receipts and tracking report.

(x) Copy of request dt. 11.07.2019 to take action on the basis of complaint dt. 07.07.2019 sent by the plaintiffs to SHO, PS. Karol Bagh, New Delhi with postal receipts and tracking report.

(xi) Copy of complaint dt. 16.11.2018 sent by the plaintiffs to SHO PS Karol Bagh, New Delhi.

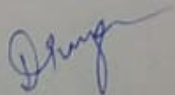
(xii) Copy of complaint dt. 07.07.2019 sent by the plaintiffs to SHO PS Karol Bagh, New Delhi.

(xiii) Copy of complaint dt. 13.12.2018 sent by the plaintiffs to the Addl. Dy. Commissioner, North Delhi Municipal Corporation, Karol Bagh, New Delhi.

(xiv) Copy of visiting card in the name of P. K. Electronics, through its Proprietor Mr. Pawan and used by Deepak also.

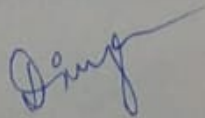
(xv) CD containing (3) Nos.

3. Further it has been submitted that the above mentioned documents could not be filed in time due to the old age of the plaintiff no. 1. The above said documents were non-traceable as plaintiff no. 2 was suffering from some disease due to old age of 67 years. After he



recovered from the disease then only the documents could be traced out as they were kept in some place. Further submitted that the above said documents are necessary for just an expedient disposal of the suit and therefore the application may kindly be allowed.

4. Thereafter, reply was filed on behalf of the defendants to the above said application in which it has been submitted that the above application is liable to be dismissed because there are no pleadings nor any reliance of any of the documents mentioned in serial no. 2(i) to (viii) which plaintiff wants to bring on record. Also all the above said documents are even dated after the completion of the pleading of the parties. Further it has been submitted that there has been delay in filing of the application as the plaint was filed on 22.11.2018 and written statement was filed on 18.12.2018. Thereafter replication was also filed and issues were also framed. Matter is at the stage of plaintiff evidence. It is further submitted that once the pleadings are complete no documents for admission and denial can be insisted upon. Further submitted that documents at Serial no. 2 (xii) and (xiii) which are alleged to be complaints against SHO by the plaintiff, the same are not related to the subject matter of the present suit and they have not been pleaded anywhere in the plaint. It is further submitted that the document at serial no. 2 (xiv) which consists of visiting card, the same is a self-serving document. It is nowhere mentioned how it has been procured and in what way it was printed by whom and from whom it was received. Document at serial no. 2 (xv) which consists of three CDs, they are also self-serving documents and also in violation of provisions of Section 65 (B) of Indian Evidence Act, 1872. In view of the above submissions plaintiff's application is liable to be dismissed because the documents which are relied upon are beyond the pleadings of the parties and after the framing of the issues, irrelevant, self-serving documents, hence inadmissible in evidence.



5. Arguments heard, Application perused.

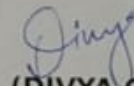
6. Order 7 Rule 14 (1) places a duty upon the plaintiff that while suing upon a document or relying upon a document in his possession he shall enter such document into the list and shall produce it in Court when the plaint is presented by him and shall at the same time deliver the copy and file with the plaint. As per Order 7 Rule 14 (3) CPC a document which ought to be produced before the Court when plaint is presented, or to be entered into the list to be added to the plaint, but is not produced or entered accordingly, shall not, without the leave of the court be received in evidence on his behalf at the hearing of the suit.

7. In view of the above settled law, it is the duty of the plaintiff to bring on record all the documents on which he is relying his suit at the time when the plaint is presented by him. In the present matter plaint was filed on 22.11.2018 along with the list of documents relied and pleaded on behalf of the defendant. Thereafter, WS was filed and replication was also filed. Issues were framed and now the matter is at the stage of PE wherein plaintiff/applicant has supplied the copy of affidavit of evidence of plaintiff no. 1. At this late stage, plaintiff/applicant intends to file documents which he was supposed to file along with the plaint. It is to be noted that the documents which plaintiff wants to bring on record are nowhere pleaded in his plaint. There are no pleadings nor any reliance of any of these documents in the plaint of the plaintiff. It has been stated in the application of the plaintiff that due to the illness of plaintiff no.2 documents could not be traced. However, the above submission does not inspire the confidence of the Court. No sufficient reason has been given by the plaintiff for the non-production of these documents earlier. Reason given seem to be



vague. There was no mentioning of document in the plaint itself. It was nowhere mentioned that in whose possessions such documents were at the time of filing of plaint. Further plaintiff wants to bring on record three CDs. It is to be noted provisions of Section 65 (B) of Indian Evidence Act which mandates the filing of certificate has not been complied with. Also Court is of the view that matter is at the late stage i.e. at the stage of PE, at this stage if such documents are allowed, it would cause delay and would cause irreparable loss to the defendant.

8. Hence, in view of the above discussion, the present application is dismissed and disposed of accordingly.



(DIVYA GUPTA)

CIVIL JUDGE-03(C), THC

17.08.2020

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Present: Sh. Sanjay Verma, Ld. Counsel for plaintiff (via video conferencing via cisco webex).

Sh. H. L. Narula, Ld. Counsel for defendant (via video conferencing via cisco webex).

Matter is listed for clarification/orders on application under Order 7 Rule 14 (3) CPC and under Section 151 CPC.

Vide my separate order of even date, the application under Order 7 Rule 14 (3) and under Section 151 CPC is hereby dismissed and disposed of accordingly.

Put up for PE on **28.10.2020**.



(DIVYA GUPTA)
CIVIL JUDGE-03(C), THC
17.08.2020