

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

Date of Reserve: 12th January, 2010
Date of Order: January 25, 2010

CM(M) No. 26/2010

%

25.01.2010

Housing & Urban Development Corporation Ltd. ... Petitioner

Through: Mr. A.K.Singh, Mr. S.K.Singh and
Mr. Gitanju Suraj, Advocates

Versus

M/s M.M.Shoes (East) Ltd. & Anr. ... Respondents

Through: Mr. Pavan Sachdeva, R-1-in-person
Mr. Jatan Singh, Standing Counsel for R-2

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporter or not? Yes.
3. Whether judgment should be reported in Digest? Yes.

JUDGMENT

By this petition under Article 227 of Constitution of India, the petitioner has assailed an order dated 14.12.2009 whereby the learned Trial Court dismissed application of the petitioner under Order 8 Rule 1(A)(3) CPC, Order 13 Rule 1 & 2 CPC and under Section 151 CPC. The petitioner (defendant no.1 before the Trial Court) wanted to bring on record fourteen documents on the ground that these documents were necessary for just decision of the case. The application was opposed by the respondent (plaintiff).

2. The Trial Court while allowed documents bearing no.1-6, 10, 12 & 13 to be taken on record since the respondent had not objected to production of these documents, hedisallowed the application in respect of documents no. 7, 8, 9,11 & 14 on the ground that they were irrelevant. The Trial Court observed that petitioner was given opportunity to file all documents time and again before framing of issues and even after framing of issues. The application for admission/denial was also filed by the respondent but petitioner refused to do admission/denial and rather stated that none of the documents listed by the respondent (plaintiff before the Trial Court) were relevant. The documents which plaintiff wanted the defendant no.1 to produce and admit included all the documents which defendant no.1 later sought to produce.

These documents were earlier refused to be produced by the defendant no.1 (petitioner) on the ground to be irrelevant. The Trial Court had given several opportunities to the defendant no.1 (petitioner) to produce the document but still the defendant no.1 (petitioner) failed to produce the documents. Under these circumstances, the Trial Court came to the conclusion that the documents which the defendant no.1 itself had stated to be irrelevant and failed to produce despite opportunities given by the Trial Court now cannot be allowed to be taken on record.

3. It is pleaded by the Counsel for the petitioner that these documents were necessary to be placed on record for proper adjudication of the case. I consider that this stand is not available to the petitioner. This is what the petitioner was told time and again before the Trial Court that he should produce the documents but the petitioner took the stand that the documents were irrelevant. He cannot now be allowed to turn around and take the stand that the documents were relevant.

4. It is also seen that the parties do not take the mandate of legislature seriously. Despite the fact that CPC was amended and Parliament by way of amendment of CPC desired that trial should proceed in right earnest and parties should come to the Court, at very initial stage, with clean hands and produce all necessary documents, and can withhold only those documents which they want to put to witnesses in cross examination still documents are not filed. All the documents are to be produced along with the pleadings or at least before framing of issues. Where a party deliberately does not produce the documents despite repeated opportunities and specific notice to produce documents and takes the stand that documents were irrelevant, such a party cannot be allowed later on to produce the same documents on the plea that they were relevant and needed for adjudication of the matter.

5. I find no force in the present petition. The petition is hereby dismissed.

January 25, 2010
vn

SHIV NARAYAN DHINGRA, J.