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

+ CM(M) 579/2014

ANIL SINGH SAINI & ORS

..... Petitioners

Through Mr.D.K.Thakur, Advocate.

versus

SANTOSH KUMARI & ORS

..... Respondents

Through Mr.K.S.Kashyap, Advocate for R-1.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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17.05.2016

Petitioners (defendants in the Trial Court) are aggrieved by the order dated 28.4.2014 vide which the application filed by them under Order VII Rule 14 of the CPC seeking permission of the Court to place on record certain documents was declined.

Record shows that the present suit is a suit for recovery of arrears of rent which has been filed by the plaintiff against 11 defendants. This Court has been informed that the suit against defendant nos.1 to 8 now stands abated as the legal representatives of the deceased were not brought on record. Defendant nos.9 to 11 are the contesting defendants. They had been impleaded subsequently pursuant to an order passed on an application under Order I Rule 10 of the CPC. They had filed a written statement. Their defence was

that they are the owners of the suit property and not the plaintiff and as such they were entitled to the rent.

Learned counsel for the petitioners (defendant nos.9 to 11) has been queried that since there is no counterclaim which has been filed by the defendants and the suit merely being a suit for recovery of arrears of rent against defendant nos.1 to 8 and the suit qua defendant nos.1 to 8 having been abated there was little scope left with the Trial Court to answer any prayer.

On this point learned counsel for the petitioners submits that issue no.2 was framed which reads as under:

“Whether defendant no.9 to 11 are the co-owners of the suit property? OPD 9 to 11.”

The onus to discharge this issue was on the defendant.

Learned counsel for the petitioners (defendant nos.9 to 11 in the Trial Court) submits that the documents which are now sought to be brought on record (by virtue of the application filed in the Trial Court under Order VI Rule 14 of the CPC) was to substantiate his defence that they are owners of the suit property and not the plaintiffs. Additional submission being that most of these documents are merely certified copies of the judicial record and these documents being above suspicion, therefore, no prejudice would be suffered by the non-applicants/plaintiffs if these documents are taken on record.

The averments contained in the application under Order VI Rule 14 of the CPC have been perused. The Trial Court had noted

that these documents were sought to be filed by the petitioners (defendant no.9 to 11 in the Trial Court) at the time when the defendants' evidence was almost over. The Trial Court was of the view that this application has been filed only to prolong the case which even otherwise was an old docket.

The documents which are sought to be taken on record have been mentioned in the aforementioned application; they are contained in para 3. All the documents except documents at serial no.4 and 16 are certified copies of the judicial record which relate to three suits proceedings (Suit No.796/1975, Suit No.412/1975 and Suit No.64/1980). These suits have been filed inter se the predecessor-in-interest of the petitioners and the predecessor-in-interest of the respondents. The aforementioned documents however admittedly do not relate to the suit property. They relate to other properties. These documents are terms of compromise recorded before a Trial Judge but at the cost of repetition they do not relate to the suit properties; they relate to some other property. The suit property is property bearing municipal no.807, Private No.A-162/1, Khasra No.302, Sukhdev Market, Kotla Mubarakpur, New Delhi. A clear and candid query has again been put to the learned counsel for the petitioners on this score who admits that all these documents (except the documents at serial nos.4 and 16 which are private documents) are judicial record pertaining to other properties and not the suit property. The second query which has been put to the learned counsel for the petitioner is

that this Court finds it difficult to believe that these documents even if they are permitted to be taken on record will in any manner serve the purpose of the defendants which is to discharge the onus of issue no.2 which is on them and which is to the effect that they are the owners of the suit property. There is no answer to his query. Admittedly, since these documents do not relate to the suit property and thus even if they are brought they would not be able to substantiate the defence set up by him that the suit property is owned by the defendant nos.9 to 11 as has been alleged by them. This Court notes that this application under Order VII Rule 14 of the CPC is also bereft of particulars and does not disclose the reasons/relevancy of the documents which are sought to be brought on record at this belated stage. It was incumbent upon the defendants to have discharge this prima facie onus in terms of this provision of law; this has also not been taken care of.

Impugned order suffers from no infirmity. This petition is dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

MAY 17, 2016
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