

\$~A-4

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

% *Date of Decision: 11.08.2016*

+ CM(M) 374/2015 & CM No.7905/2015

SHRI RAMANAND

..... Petitioner

Through Mr.S.S.Panwar and Ms.Nivedita  
Panwar, Advs.with petitioner in person

versus

DELHI DEVELOPMENT AUTHORITY (THR ITS VICE  
CHAIRMAN) & ANR

..... Respondent

Through Mr.Dhanesh Relan, Standing counsel  
for DDA with Ms.Isha Garg, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE JAYANT NATH**

**JAYANT NATH J. (ORAL)**

1. By the present petition the petitioner seeks to impugn the order dated 4.12.2014. The petitioner/plaintiff has filed a suit for damages against the respondents. The plaintiff claims to be in occupation of un-acquired land of Khasra No.218 (measuring 4 bighas and 7 biswas) in village Masoodpur, New Delhi. It is his contention that on 4.8.2006 respondent No.1 DDA demolished the house of the petitioner damaging/crushing the belongings lying therein. Hence, the suit was filed claiming damages of Rs.10 lacs. The issues in the present case were framed on 28.11.2007 and an additional legal issue has been framed on 7.12.2012. Admittedly, evidence of the plaintiff has commenced but now the present two applications have been filed under Order 7 Rule 14 CPC seeking to place on record certain additional documents.

2. A perusal of the impugned order shows that the trial court noted that

there is nothing new which the petitioner has discovered which could not have been filed earlier. The trial court concluded that permitting the petitioner to file the documents at this stage would prejudice the trial and lead to unnecessary delay. Accordingly, both the applications filed by the petitioner were dismissed.

3. Learned counsel for the petitioner has vehemently submitted that these are all admitted documents and are essentially official documents and they are material for this case. He relies upon judgment of a Single Judge of this court in *Link Engineers (P) Ltd. vs. Asea Brown Boveri Limited, 2007 (140) DLT 533* to contend that evidence commences only when cross-examination has commenced and hence in the present case evidence has yet not commenced. He also relies upon judgment of the Supreme Court in *Kapil Kumar Sharma vs. Lalit Kumar Sharma and Another, (2013) 14 SCC 612* contending that these documents be taken on record.

4. Learned counsel for the respondent has opposed the present application relying upon *Polyflor Limited vs. Sh.A.N.Goenka & Ors. 2016 SCC Online Del 2333* and *Haldiram (India) Pvt. Ltd. & Ors. vs. M/s. Haldiram Bhujawala & Anr. 2009 SCC Online Del 639* to contend that such document would prejudice the respondents and needlessly delay the trial.

5. Order 7 Rule 14 sub clause 1 and 3 read as follows:-

**“O.VII R.14. Production of document on which plaintiff sues or relies**

(1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in court when the plaint is presented by him and shall, at the same time

deliver the document and a copy thereof, to be filed with the plaintiff.

(2) ...

(3) A document which ought 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 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.”

6. The settled legal position as per Order 7 Rule 14 is that the plaintiff has to present documents when the plaint is presented by him. Subsequently, the document cannot be presented without the leave of the court.

7. In *Polyflor Limited vs. Sh.A.N.Goenka & Ors (supra)* this court in paragraphs 16, 17 and 18 held as follows:-

“16. Order VII Rule 14 (3) mandates that: “A document which ought 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 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”. Thus, as a matter of rule, the plaintiff is prohibited from leading in evidence a document which he ought to have produced when the plaint was presented. The exception to this rule is that, where the Court grants leave to the plaintiff, the document may be permitted to be led in evidence at the hearing of the suit.

17. Thus, the issue is, whether in the above noted facts and circumstances, the plaintiff is entitled to grant of such leave. In the present case, the plaintiff’s witness PW-1 is under cross-examination and has already undergone a substantial portion of his cross-examination. To grant leave to, and permit the plaintiff to file and lead in evidence additional documents at this stage would mean that the defendants would be put to serious prejudice. The defendants have not had the occasion to

deal with the said documents. Had the documents now sought to be produced, been produced at the relevant time, i.e. at the stage of filing of the suit, or at least at the time when the issues were framed, the defendants would have had the occasion to deal with the same by making appropriate pleadings and filing its own documents to counter the reliance placed by the plaintiff on the documents in question.

18. The progress of the suit cannot be interdicted on account of the blatantly casual approach of the plaintiff. The plaintiff has not given any justifiable and acceptable explanation for not filing the said documents at the earlier stage of the proceedings. If the submissions of the plaintiff were to be accepted, it would mean that in every case, a party should be permitted to lead in evidence documents not earlier filed and relied upon at any stage of the proceedings.”

8. Similarly in *Haldiram (India) Pvt. Ltd. & Ors. vs. M/s.Haldiram Bhujiawala & Anr. (supra)* this court in para 21 and 22 held as follows:-

“21. In any event, both under the old Order 7 Rule 18 sub-rule (1) and new Order 7 Rule 14 sub-rule (3) CPC a new document can certainly be produced on behalf of plaintiff at the final hearing of suit, but the same has to be done with leave of the Court. It is not that the plaintiff has a legal vested right to file a document at a belated stage i.e. at the final hearing of the suit. The said provision gives a discretionary power to the Court, which needless to say has to be exercised in a reasonable and legal manner. In fact, this power has to be exercised sparingly and for some overpowering reason and not as a matter of routine. If petitioners’ interpretation of Sub Rule 3 is accepted, it would make it impossible for the trial court to conclude the hearing of any suit.”

9. The legal position is clear that only those documents can be permitted to be filed after the initial stage where the Court grants leave. I may come to the reasons given by the petitioner for the belated filing of the two

applications to bring on record additional documents.

10. A perusal of the application of the petitioner under Order 7 Rule 14 CPC which was the first application filed shows that the only ground mentioned for filing this application is stated in para 6 as follows:-

“6. That certain documents, now intended to be filed, are result of subsequent events and supply of relevant information by the concerned authorities. Hence, the same were not in power and possession of the plaintiff at the relevant time, however, the same are very important documents and are necessary to assist this Hon’ble to arrive at a fair conclusion in deciding the real controversy involved between the parties, otherwise, serious prejudice would be caused to the plaintiff.”

11. Admittedly, the issues were framed way back on 28.11.2007. An additional legal issue has been framed on 7.11.2012. The evidence of the petitioner has already commenced. Now at this belated stage the petitioner has chosen to move the present applications in 2012. The only explanation given is that the documents intended to be filed are a result of “subsequent events and supply of relevant information by the concerned authorities”. Under the guise of this general excuse 88 additional documents are sought to be placed on record. The manner in which the documents are sought to be filed clearly show that the plea of the petitioner lacks merits. The belated filing of the documents would prejudice the respondent at this stage. No sufficient reasons are given by the petitioners.

12. The impugned order does not suffer from any infirmity. The present petition is dismissed.

**JAYANT NATH, J**

**AUGUST 11, 2016**

**N**