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

+ CM(M) 1261/2016 and CM Nos. 45470-71/2016

SUNIL MAHESHWARI Petitioner
Through Mr. Ankit Jain, Advocate.

versus

M/S IVRCL LTD Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
07.12.2016

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1. The present petition is filed under Article 227 of the Constitution of India to impugn the order dated 20.10.2016 by which an application filed by the petitioner/plaintiff under Order 7 Rule 14(C) CPC for placing on record additional documents was dismissed.
2. The plaintiff/petitioner has filed the present suit for recovery of Rs.19,99,000/- stating himself to be the proprietor of M/s Toshniwal Electricals. The respondent/defendant in their written statement have denied that the petitioner is the proprietor of M/s Toshniwal Electricals. It is stated that the purchase order was issued, signed and accepted by one Sh.Mukund Maheshwari on behalf of M/s Toshniwal Electricals and that the said Sh.Mukund Maheshwari has represented himself as a sole proprietor.
3. It is in these circumstances that the petitioner/plaintiff while filing his replication sought to file documents like sales tax/VAT returns filed by the

petitioner in the ordinary course of business to clarify that the petitioner is the sole proprietor of M/s Toshniwal Electricals. The said documents though not directly connected with the suit for recovery had to be filed in view of the particular objection taken by the respondent in the written statement.

4. By the impugned order the trial court stated that along with the plaint no list of reliance was filed on record stating in whose possession the sales tax/VAT returns were. It also holds that the application is bereft of any reason for not placing on record the sales tax/VAT returns at the time of filing the plaint. Hence, the application was dismissed.

5. The application categorically states that the reason for filing these documents is in view of the peculiar objection taken by the respondent denying that the petitioner is the sole proprietor. Hence, the conclusion of the trial court that there are no reasons stated for not placing these documents earlier is a conclusion contrary to the record. The petitioner has also given sufficient reason as to why the need and occasion has arisen at this stage for filing the said documents. The documents are being filed at the earliest opportunity i.e. after the written statement is filed by the respondent. There was sufficient reason to allow the petitioner to place on record the said documents.

6. The counsel for the respondent has been served with an advance copy of the petition in person. Despite the receipt of advance copy, none is present for the respondent.

7. The impugned order suffers from material irregularity and is hereby quashed. The application of the petitioner under Order 7 Rule 14 (3) CPC is allowed and the documents may be taken on record.

8. With the above observations, the present petition stands disposed of.

9. All pending applications also stand disposed of.

JAYANT NATH, J

DECEMBER 07, 2016

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