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

\+ CM(M) 1149/2015

ARDOUR DISTRIBUTION & SERVICES PVT LTD..... Petitioner

Through Mr. Ankit Sibbal, Advocate.

versus

M/S ABTON POWER DEVICES (P) LTD & ANR..... Respondent

Through Mr.Vivek Kumar Verma, Advocate.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

O R D E R

% **08.07.2016**

The present petition is filed seeking to impugn the order dated 23.09.2015. The petitioners have filed a suit for recovery. In the course of cross-examination of PW-1, the petitioner moved an application under Order VII Rule 14(3) CPC seeking leave of the court to place an invoice dated 17.02.2013 on record. The impugned order notes that on 12.08.2015, petitioner No.1 brought the aforesaid tax invoice dated 17.02.2013 and placed it on record without seeking proper leave of the court as required under Order VII Rule 14 (3) CPC. The court noted that the said provision of law is not a tool in the hand of a defaulting part to nullify the cross-examination by the opposite party and that this cannot be used as a mechanism to make up the deficiencies of evidence which is brought on record during the course of cross-examination. The impugned order further notices that it is likely to open endless instances of filing of such "curing documents". Accordingly, the document, namely, the tax invoice dated 17.02.2013 was directed not to be read in evidence.

Learned counsel appearing for the petitioner submits that the particular invoice dated 17.02.2013 was not available with the petitioner but after the question was asked in the course of cross-examination, petitioner searched his record and found the document which is now proposed to be placed on record. He further submits that this document is mentioned in the ledger of the petitioner which is already placed on record. He further submits that the petitioner would not be leading any additional evidence regarding this document before this court and that cross-examination of plaintiff is now over.

Learned counsel appearing for the respondent has raised various objections regarding the validity of the ledger filed by the petitioner. He further submits that in case this document is allowed to be placed on record, the respondent/defendant would also have to move appropriate application for filing additional document before the trial court inasmuch as the defence witness is presently being cross-examined.

In the light of the explanation given by the petitioner/plaintiff for filing of the present document and the fact that the cross-examination of Pw-1 is already concluded, the impugned order dated 23.09.2015 is modified. The present document shall remain on record. The plaintiff/petitioner shall be bound by the submission of the learned counsel for the petitioner that he would not lead any additional evidence in this regard. This document is being placed on record without prejudice to the rights and contentions of the parties. Liberty is also granted to the respondent to move an appropriate application before the Trial Court for filing additional documents if necessary as a consequence of the present order.

With these observations, the present petition stands disposed of.

JAYANT NATH, J

JULY 08, 2016
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