

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 310 of 2017

1. Smt. Vijay Laxmi Sharma W/o Shri Pramod Kumar Sharma, Aged About 47 Years Caste Brahman, Director/ Principal, Mothers Care Nursery School, Through Minimata Higher Secondary School, Sector -3, District Korba, Chhattisgarh.
2. Pramod Kumar Sharma, S/o Late Govind Prasad Sharma, Aged About 58 Years Occupation Service, BALCO, Caste Brahman, R/o House No. 254- B/ Sector-1, BALCO Nagar, Korba, Tahsil & District Korba (Chhattisgarh).
3. Smt. Nirmala Sahu W/o Shri Ramgopal Sahu, Aged About 40 Years Caste Sahu, Assistant, Mothers Care Nursery School Through Minimata Higher Secondary School, Sector- 3, District Korba, Chhattisgarh.
4. Kumari Nimmi Sahu, D/o Shri Roop Rai Sahu, Aged About 22 Years Caste Sahu, Presently At Mothers Care Nursery School Through Minimata Higher Secondary School, Sector- 3, District Korba, Civil & Revenue District Korba, Chhattisgarh. Defendants

---- Petitioners

Versus

Dushyant Kumar Sharma S/o Late Bhojram Sharma, Aged About 59 Years, Caste Brahman, Secretary, Kalyan Shiksha Samiti, Balco Nagar (Minimata Higher Secondary School, Sector- 3), District Korba (Chhattisgarh). Plaintiff

---- Respondent

For Petitioners	:	Shri Hari Agrawal, Advocate.
For Respondent	:	Shri Amit Sharma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

28/04/2017

(1) By way of instant writ petition, the petitioners/defendants have called in question the rejection of their application in part by the trial Court declining to take photocopy of the documents on record.

(2) Shri Hari Agrawal, learned counsel for the petitioner vehemently contented that photo copy of the documents can be taken on record under

Order 8 Rule 1-A of the CPC. He placed reliance upon the decision of the Delhi High Court in the matter of **Aktiebolagetvolvo & others Vs. R. Venkatachalam & another**¹ in support of his case.

(3) Per contra, Shri Amit Sharma, learned counsel appearing for the respondent/plaintiff would submit that photo copy of the documents is not at all admissible in evidence and it cannot be exhibited in evidence.

(4) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(5) Order 8, Rule 1-A of the CPC states as under:-

[1-A. Duty of defendant to produce documents upon which relief is claimed or relied upon by him.- (1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set-off or counter-claim, he shall enter such document in a list, and shall produce it in Court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

(2) xx xx xx xxx

(3) xx xx xx xxx

(6) High Court of Delhi in the matter of **Aktiebolagetvolvo** (supra) has considered the aforesaid provisions and came to the specific conclusion, which states as under:-

“13. Thus reference in CPC to documents, except in Order 13 Rule 1 is not necessary to the original documents and includes copies within the document. Thus the contention of the counsel for the defendant of Order 7 Rule 14 or Order 8 Rule 1A of the CPC requiring originals to be filed is not found to be correct.

14. Even otherwise “document” is defined in *Black’s Law Dictionary 8th Edition* inter-alia as something tangible on which

1 ILR (2009) VI Delhi 233.

words symbols or marks are recorded.

17. Document is also defined in Section 3(18) of the General Clauses Act as including any matter written, expressed or described upon any substance by means of letters, figures or marks or by more than one of those means which is intended to be used or which may be used for the purpose of recording that matter.

19. From all the aforesaid definitions of document found by me, a photocopy or a copy would also be a document. Thus it cannot be said that the provisions of the CPC for filing of documents necessarily relate to original documents. The legislature has used the word original only in Order 13 Rule 1 of the CPC.”

(7) The aforesaid decision has been subsequently followed with approval by the Delhi High Court in the matter of **Promila and others Vs. Hazi Gulam Rasool**².

(8) I am in respectful agreement with the view expressed by Delhi High Court in the aforesaid cases and held that photo copy can be taken into record under Order 8, Rule 1-A of the CPC.

(9) Consequently, the writ petition is allowed subject to cost of Rs.5,000/- payable to the respondent/plaintiff on the next date of hearing before the trial Court. Photo copies of the document are directed to be taken on record. However, the plaintiff is entitled to take defence that photocopies of the documents are not admissible in evidence.

(10) No order as to costs.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-