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

+ CM(M) 1065/2016 & CM No.39171/2016

M/S JAINSONS ELECTRONICS Petitioner
Through Mr.N.S.Nagi, Advocate

versus

M/S ENERSAVE LIGHTING SOLUTIONS PVT LTD....Respondent
Through Mr.Ayushya Kumar, Advocate

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
15.03.2017

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CM(M) 1065/2016 & CM No.39171/2016

1. By the present petition filed under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 18.7.2016 by which order the trial court dismissed the application filed by the petitioner under Order 7 Rule 14 CPC. The plaintiff/petitioner has filed a suit for recovery of Rs.11,07,857/-. The petitioner filed an application under Order 7 Rule 14 CPC where he sought to place on record carbon copies of 75 invoices and a certificate under section 65-B of the Indian Evidence Act regarding the Statement of Accounts allegedly maintained by the petitioner.

2. The trial court by the impugned order on the prayer of the petitioner for placing on record 75 carbon copies of invoices noted that alongwith the list of documents no list of reliance was filed by the petitioner. It also noted that the plaint is bereft of particulars of misplacement of the documents including the 75 carbon copies which are now sought to be placed on record.

Accordingly, the trial court did not permit the petitioner to place the carbon copies on record. On the issue of certificate, the trial court noted that judgment of the Supreme Court in *Anwar P.V. vs. P.K.Basheer & Ors., (2014) 10 SC 453* to disallow the petitioner to place the certificate in question on record.

3. I have heard learned counsel for the parties.

4. Learned counsel for the petitioner for the time being submits that he would press the relief as prayed in the application limited to the permission of filing 75 carbon copies of invoices/receipt. Learned counsel for the petitioner further submits that he does not press the relief regarding placing on record certificate regarding 65-B of the Evidence Act.

5. Learned counsel for the respondent has vehemently opposed the present petition. He relies upon judgment of this court in the case of *Haldiram (India) Pvt. Ltd. & Ors. vs. M/s. Haldiram Bhujiawala & Anr., ILR (2009) V DELHI 503*.

6. In the present case it is admitted by the parties that in the Statement of Accounts that was filed alongwith the plaint, there is a mention of the invoices carbon copies of which are sought to be placed on record. The Statement of Accounts is filed alongwith the plaint. Apart from that there are six carbon copies of invoices filed alongwith the plaint. What the petitioner now wants to do is to place on record the balance 75 carbon copies of the invoices. This application has been filed at a stage when the plaintiff's evidence is being recorded.

7. Keeping in view the fact that these are not totally new documents and that a reference to these documents is there in the documents that are accompanying the plaint, in my opinion, merely because the petitioner had

failed to mention that the documents were not traceable when he filed the plaint would not be a ground to disallow the petitioner to place these documents on record. The proceedings are at a preliminary stage and the plaintiff's evidence is yet to start. The petitioner has only filed the evidence by way of affidavit.

8. Reliance of learned counsel for the respondent on the judgment of this court in ***Haldiram (India) Pvt. Ltd. & Ors. vs. M/s. Haldiram Bhujawala & Anr. (supra)*** is misplaced. In para 21 this court 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. I may note that in that case the court was dealing with a case where the application had been filed at the stage of final arguments. In my opinion, there was enough reason for the trial court to have permitted the carbon copies of invoices which are referred to in the Statement of Accounts to be placed on record. The impugned order to the extent that it disallows placing of the said document suffers from material illegality. The same is quashed. Subject to payment of costs of Rs.10,000/-, the petitioner may place the 75 carbon copies of invoices on record.

10. Petition is disposed of. All pending applications, if any, also stand disposed of.

JAYANT NATH, J

MARCH 15, 2017

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