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

+ **CM(M) 656/2018 & CM APPL. 23002/2018**

DHARAMJIT KHERA

..... Petitioner

Through: Mr. Manoj Ranjan Sinha, Advocate.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Ajay Digpaul, CGSC, UOI (M-8077673704)

Mr. Shaiwal Srivastava, Advocate
along with Mr. Vikas Giri, AGM
(Law), SAIL (M-9871214365)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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06.01.2020

1. The Petitioner/Plaintiff (*hereinafter 'Petitioner'*) herein is aggrieved by the various impugned orders by which the evidence in rebuttal was not permitted to be led. The question is as to whether the Petitioner ought to be given permission to lead the rebuttal evidence considering the order dated 3rd March, 2015 which was passed by this Court. It is seen that despite five years having lapsed, the issue as to the rebuttal evidence and the scope thereof is still remaining pending.

2. Ld. Counsel for the Petitioner submits that the Petitioner had referred to the Board of Directors meeting minutes dated 29th November, 1986 which was wrongly typed as 1995 in paragraph 10(xii) of the plaint. Thus, it is urged that this document ought to be permitted to be led in evidence as an

uncertified copy of this document was already on record before the Trial Court.

3. Ld. counsel for the Respondent however submits that repeated delay is being caused by the Petitioner on the ground that the rebuttal evidence is to be led. A perusal of the order dated 3rd March, 2015 is very clear that no further documents can be filed and rebuttal evidence restricted to the documents and evidence and pleadings on record was permitted.

4. After hearing the parties and perusing the record, it is clear that the order dated 3rd March, 2015 merely permitted rebuttal evidence to be led by the Petitioner only in the following manner:

“6. Be that as it may the dispute relates only to Ex.PW-5/1 and Ex.PW-5/2 which the learned Trial Court did not permit to be exhibited along with the rebuttal being irrelevant for deciding the controversy between the parties. The learned Trial Court rightly held that the facts in the two exhibits were not pleaded in the plaint and now in the garb of rebuttal evidence the Plaintiff/Petitioner cannot be permitted to plead new facts or place on record documents. It was further rightly held that the two documents Ex.PW-5/1 and Ex.PW-5/2 were altogether irrelevant for, deciding the controversy involved in the matter. The order of the learned Trial Court cannot be faulted in this count. However, vide final order in Para No.8 the learned Trial Court held that the affidavit filed by the Plaintiff in rebuttal cannot be taken on record. The affidavit of the Plaintiff in rebuttal contains both materials, that is, one which was the case of the Plaintiff and is required for rebutting the evidence of the Defendant and secondly the new material, that is, evidence qua Ex.PW-5/1 and Ex.PW-5/2.

7. The impugned order dated 8th January, 2015 is modified to the extent that the learned Trial Court will

receive the evidence of the Plaintiff which does not relate to new pleadings and new evidence and only amounts to rebuttal.”

The above order makes it clear that rebuttal evidence is permitted only to the extent that the pleadings and documents on record can be supported therefrom.

5. In any event, the purpose of rebuttal evidence is to only rebut the evidence which has been led by the Defendant and fresh documents cannot be permitted by the Court even as per the provisions of the CPC.

6. Under these circumstances, in order to avoid any further delay and to give effect to the order extracted above, it is made clear that one opportunity is granted to the Petitioner subject to payment of Rs.20,000/- as costs to the Respondent, to lead rebuttal evidence to the extent that the same is supported by the pleadings and evidence on record. No fresh document shall be permitted to be filed. Insofar as the minutes of meeting dated 29th November, 1986 is concerned, if an uncertified copy of the same is already on record of the Trial Court, the Petitioner shall be permitted to place a certified copy of the same on record. Beyond this, no further document shall be permitted. Fresh affidavit by way of rebuttal evidence be filed strictly in terms of this order. The costs shall be paid on or before the next date before the Trial Court.

7. With these observations, petition is disposed of. All pending applications are disposed of.

PRATHIBA M. SINGH, J

JANUARY 06, 2020

Rahul