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

+ **CM(M) 846/2018 and CM APPL. 29607/2018**

RAJAM S PILLAY & ANR

..... Petitioners

Through: Mr. Harshit Jain and Mr. Anandini,
Advocates (M: 9899113806).

versus

SONIA @ PAYAL VOHRA & ANR

..... Respondents

Through: Mr. Naveen Kumar Rahija, ASC,
DDA with Ms. Meenakshi Jha and
Mr. Singhi D., Advocates (M:
9810129691).

Mr. Aman S. Bakshi, Advocate for R-
1 (M: 9873737382).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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07.01.2020

1. No reply is required in this matter. The present petition has been filed challenging the impugned order dated 17th May, 2018 by which the application of the Petitioners/Defendant Nos. 2 & 3 (hereinafter, Defendant Nos. 2 and 3) before the Trial Court under Order VIII Rule 1A CPC was dismissed. The submission of ld. counsel for Defendant Nos. 2 and 3 is that in 2013, i.e. on 11th October, 2013 a bunch of documents running into pages 1 to 230 was filed by Defendant Nos. 2 and 3 before the High Court vide Diary No. 157629/2013 when the suit was pending before the High Court. However, the matter was thereafter transferred to the District Court owing to the change in the pecuniary jurisdiction. The Plaintiff's evidence was thereafter conducted. At the stage of the Defendants' evidence, the

Defendants discovered that the set of the said documents was not on record. At that stage, the application under Order VIII Rule 1A CPC came to be moved. The application was rejected by the Trial Court on the ground that there is no noting to the effect that any such documents were in fact filed.

2. Ld. counsel for the Defendant Nos 2 and 3 submits that the status extracted from the Delhi High Court website would itself show that the set of documents has been filed on 11th October, 2013 by the then counsel, Mr. Rahul Kumar. He submits that the said counsel has since been changed and the Defendants did not realise that the documents had not come on record. On the other hand, ld. counsel for the Plaintiff submits that the Plaintiff's evidence has been concluded and severe prejudice would be caused for the Plaintiff if the documents are allowed at this stage.

3. After looking at the matter and the fact that the official website of the High Court shows that the set of documents was filed on 11th October, 2013, it is deemed appropriate to allow the application under Order VIII Rule 1A CPC. The documents are directed to be taken on record subject to payment of costs of Rs. 15,000/- each to the Plaintiff and the DDA (Respondent No. 2/Defendant No. 1). The said documents would have to be proved in accordance with law. Objections as to mode of proof and admissibility are left open to be adjudicated at the final stage.

4. The Defendants would lead the evidence of their own witnesses in respect of these documents. If the Plaintiff wishes to lead any rebuttal evidence in respect of these documents after conclusion of the Defendants' evidence, the same shall be permitted.

5. The present order has been passed inasmuch as there is an interim order operating in this matter, and the trial of the suit has been held up. The

record before this Court is incomplete and in view of the transfer of the suit, it is not possible to verify as to whether the documents were in fact filed or not filed or are under objections.

7. Since the suit is more than 12 years old, the Trial Court is directed to expeditiously dispose of the suit.

8. Petition with all pending applications is disposed of.

PRATHIBA M. SINGH, J.

JANUARY 07, 2020
MR