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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 18/2018 & CM APPL. 463/2018**
SHRIVATS RATHI Petitioner

Through: Mr. Satish Kr. Tripathi & Mr.
Devendra Kumar, Advocates (M-
9868101733)

versus

M/S AMERICAN EXPRESS BANKING CORP Respondent
Through: Ms. Ritu Sobti, Advocate (M-
9910087232)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **08.01.2020**

1. The grievance in the present petition is that two sets of additional documents which were relied upon by the Petitioner/Defendant (*hereinafter* 'Defendant') were not taken on record by the Trial Court and the application seeking permission to file the documents was rejected.
2. The suit is one for recovery filed by M/s. American Express Banking Corp. (*hereinafter* 'Bank') against the Defendant. The case of the Bank is that the Defendant is liable to pay a sum of Rs.5,25,433.82/- along with interest which was the expenditure incurred by the Defendant using the American Express credit card. The suit was itself filed in 2010 and the matter is at the stage of Defendant's evidence.
3. At this stage, two sets of documents were sought to be relied upon by the Defendant and an application was moved for taking the said documents on record along with an application for amendment of the plaint. The Id. ADJ has rejected the said two applications. The Id. counsel for the Defendant submits that the documents deserve to be taken on record as they

are relevant to establish that there was a full and final settlement as per the Defendant with the Bank.

4. On the other hand, Id. counsel for the Bank submits that the Bank does not dispute the appointment of this agency for collection of payment. There was payment made by the Defendant. However, the same was a part payment and the agency was not authorized to enter into a full and final settlement with the Petitioner on behalf of the Bank. Id. counsel further submits that there was a full and final settlement with the mother of the Defendant but not with the Defendant

5. Heard counsels for the parties. The documents which the Defendant wishes to place on record are of two categories:

- i) The first set of documents is the credit card statement, copies of which have been filed by the Bank;
- ii) The second set are documents relating to the collection agency appointed by the Bank.

6. Insofar as the first set of documents are concerned, since the copies of the credit card statement have been relied upon by the Bank itself, the original/certified statement can be taken on record and referred to by the trial court for the purposes of final adjudication.

7. The second set of documents are contested between the parties. They relate to the collection agency appointed by the bank to recover amounts from its customers. The stand of the bank is clear i.e., though the agency was appointed, the full and final settlement was entered into only with the Defendant's mother. The agency had no authority to enter into a final settlement with the Defendant.

8. On the other hand, the Defendant's stand is that there is a full and

final settlement. An issue has also been framed to this effect.

9. Considering the competing stands of the parties and the issues framed in the suit there is no doubt that the documents which have been filed are relevant for the adjudication of the disputes between the parties. There is further no doubt that the documents ought to have been filed earlier but some of the documents relate to a period in January, 2017 which is subsequent to the filing of the present suit.

10. While leaving the objections of the Bank open in respect of mode of proof and admissibility of these documents as also the interpretation of these documents, since the Bank does not dispute the existence of these documents, but only disputes the interpretation thereof, the same shall be exhibited by the Trial Court subject to the objections raised by the Bank.

11. Though, the documents are directed to be exhibited, the interpretation to be rendered qua these documents shall be heard by the Court and an independent view shall be taken by the Court in accordance with law in respect of these documents. No further evidence would be required as the existence of the documents is not disputed. The exhibit marking shall be done by the Trial Court. In view of this order, no amendment is required in the written statement as the issue as to whether there was a full and final settlement of disputes has already been framed by the trial court.

12. With these observations, the petition and all pending applications are disposed of.

PRATHIBA M. SINGH, J

JANUARY 08, 2020/*Rahul*