



\$~25

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 581/2022 & CM APPL. 27810/2022, CM APPL. 27811/2022, CM APPL. 27812/2022

SH. VINEET GOEL Petitioner
Through: Mr. Satyendra Kumar, Ms. Sanita Bhardwaj and Mr. Nitesh Sain, Advs. with petitioner in person

versus

MS. RUSHMI GOEL & ANR. Respondents
Through: None

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)
03.06.2022

%

1. This petition, under Article 227 of the Constitution of India, assails order dated 22nd December, 2019 passed by the learned Additional District Judge (the learned ADJ) in CS/DJ/ NO. 577733/2016 (*Vineet Goel v. Rushmi Goel & ors*).

2. The petitioner was the plaintiff in the suit and the respondents were the defendants.

3. The impugned order has been passed on an application filed by the petitioner, as the plaintiff in the suit, to take the certified copies of the original bank statements of the plaintiff's account in the HSBC Bank on record.



4. The application averred that the said documents were necessary to enable the plaintiff to appropriately prosecute the plaint.

5. The aforesaid documents were being sought to be placed on record by the plaintiff in compliance with the direction issued in para 5 of the order dated 19th March, 2015 passed by this Court in CS(OS) 1414/2010 which, consequent to enhancement of pecuniary jurisdiction of the trial courts, was transferred and re-numbered as CS 577733/2016.

6. This Court had, in paras 4 and 5 of its order dated 19th March, 2015, noted and directed thus:

“4. Having regard to the fact that the defendant no.2 has deposited the entire amount received by it in respect of the three plots along with Interest, the only issue left for adjudication in the present suit is the manner in which the said amount has to be apportioned between the plaintiff and the defendant No, 1.

5. Both the parties are directed to file their affidavits along with the photocopies of the pass books of their respective bank accounts to substantiate their claim that they have deposited amounts from the said accounts from time to time with the defendant No.2 towards allotment of the subject plots. *Needful shall be done within four weeks* along with a computed statement of account and photocopies of the pass books evidencing that payments were released from the said accounts, while exchanging copies thereof with each other.”

(Emphasis supplied)

7. Para 5 of the order dated 19th March, 2015 is clear in its mandate that the documents were required to be filed by the petitioner within four weeks.



8. Mr. Satyendra Kumar, learned Counsel for the petitioner, submits that the documents were, in fact, filed by the petitioner, in the suit within the aforesaid period of four weeks as fixed by this Court in the order dated 19th March, 2015, but that the Bank statements of the petitioner's account in the HSBC were, at that time, not available with the petitioner, as the original Bank account statement had been filed by the petitioner before the learned Trial Court in another suit i.e. CS ADJ 1712/2016 (*Vineet Goel v. Rushmi Goel*), pending before another Court.

9. It is for this reason, submits Mr. Kumar, that these documents could not be filed within the period of four weeks as granted by this Court. The petitioner, however, applied to the court which was in *seisin* of CS ADJ 1712/2016 to obtain certified copies of the aforesaid bank statements. It is these certified copies that the petitioner sought to place on record before the learned ADJ in the present suit i.e. CS DJ 577733/2016, for which purpose the petitioner moved an application, which stands dismissed by the impugned order dated 22nd December, 2021.

10. The learned ADJ has rejected the petitioner's application on the ground that CS ADJ 1712/2016 had originally been instituted before this Court as CS (OS) 1935/2008, indicating that the said suit had been instituted at least two years prior to the original institution of CS DJ 577733/2016 before this Court as CS(OS) 1414/2010. That being so, the learned ADJ has held that the plea that the originals of the



documents, the certified copies of which were now being sought to be placed on record, had been filed before the court in CS ADJ 1712/2016, could not afford a reasonable justification to take the documents on record belatedly.

11. The second ground on which the learned ADJ has rejected the petitioner's application is that the petitioner was always aware of the existence of the documents which he now seeks to place on record and that, therefore, there was no reason forthcoming for filing of the documents at a belated stage.

12. Having heard learned Counsel and perused the record, I am not convinced that any case exists, for this Court, to interfere with the decision of the learned ADJ, within the limited parameters of its jurisdiction under Article 227 of the Constitution of India.

13. The documents which the petitioner was seeking to place on record by way of the application under Section 151 of CPC, which stands dismissed by the impugned order dated 22nd December, 2021, ought to have been filed within a period of four weeks of 19th March, 2015, as per para 5 of the order passed by this Court in CS(OS) 1414/2010 on the said date.

14. No application was filed by the petitioner seeking a modification of the said order or extension of time to file the documents.



15. The application under Section 151 of the CPC, whereunder the petitioner now sought to bring the documents on record, is delightfully vague, and reads thus:

“Application u/s 161 CPC of taking on record the documents filed with present Evidence by way of Affidavit”

Most respectfully sheweth:

That the present matter is pending before this Hon'ble Court and fixed for petitioner evidence on 16-9-2019:

1. That the petitioner has had filed another case against Ms. Rushmi Goel, Respondent, which is pending before the Court of Sh. Shivaji Anand Ld. ADJ (North) Rohini and fixed for 25 September 2019 titled Vineet Goel v. Rushmi Goel CDADJ No. 1712/20161.

2. The petitioner obtained the certified copy of the relevant HSBC Bank Original (Duplicate) statements of the petitioner account from this abovementioned case file, which are necessary to file in the present matter.

3. That the petitioner has obtained some pertinent checks copy from HSBC Bank, which were not in custody of the petitioner, and other critical documents critical to the instant case for natural justice.

4. That due to the above stated reasons the petitioner is filing these documents at this stage with the Evidence by way of affidavit now.

5. That the reasons for not filing these documents are as above mentioned and it was neither intentional nor deliberate.

It is, therefore, that this Hon'ble Court may kindly be please to:

1. Allow the present application for taking on record the documents annexed with Evidence by way of Affidavit,



2. Pass such other order as this Hon'ble Court may deem fit and proper in the interest of natural justice.

That the content of accompanying affidavit of evidence are true and correct to my knowledge, belief, and information.”

16. Clearly, the application does not set out any reasonable justification for the petitioner not placing the aforesaid documents on record within the time granted by this Court in its order dated 19th March, 2015. All that is said is, that the documents “were not in custody of the petitioner”. The application is completely silent regarding the location of the documents, from where the petitioner was to retrieve them, or the efforts made or time expended by the petitioner in retrieving the documents and placing them on record.

17. The perfunctory nature of the application is yet another reason why the learned ADJ cannot be faulted in having rejected it.

18. Thirdly, the documents in question were the bank statements of the petitioner’s account in the HSBC Bank. The originals of the bank statements were, according to the petitioner, filed before the court *in seisin* of CS ADJ 1712/2016.

19. Mr. Satyendra Kumar, learned Counsel for the petitioner, acknowledges that, on 19th March, 2015, the documents were also present on the record of CS ADJ 1712/2016. The petitioner should, at the very least, have immediately applied for obtaining certified copies of the documents, so that they could be placed on record as directed by



this Court in its order dated 19th March, 2015.

20. Mr. Satyendra Kumar, on being queried in this regard, submits that he does not know the exact date when the application was made for certified copies, but acknowledges that it was not made immediately, or even shortly, after passing of the order by this Court on 19th March, 2015.

21. In any event, the application to take the documents on record was filed only on 16th September, 2019.

22. Clearly, therefore, the petitioner was also indolent in applying and obtaining certified copies of the documents from the court which was in *seisin* of CS ADJ 1712/2016.

23. In view of the aforesaid, no error, warranting supervisory correction by this Court in exercise of its jurisdiction under Article 227 of the Constitution of India can be said to exist in the impugned order.

24. The petition is accordingly dismissed.

C. HARI SHANKAR, J

JUNE 3, 2022

dsn