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

Date of decision: 17.11.2023

+ **CM(M) 429/2023 & CM APPL. 13050/2023**

ANITA PODDAR & ANR. Petitioners

Through: Mr. Ajay Gupta, Advocate.

versus

DURU MALIK & ORS. Respondents

Through: Ms. Rashmi Chopra and Mr. Puneet Rathi, Advocates.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. This petition filed under Article 227 of the Constitution of India impugns the order dated 13.02.2023 passed by ADJ, Central District, Tis Hazari Courts, Delhi ('Trial Court'), in CS DJ No. 612040/2016, titled as **Duru Malik v. Suhagwati & Ors.**, allowing an application filed by the plaintiff i.e., Respondent No.1 under Order VII Rule 14(3) of the Code of Civil Procedure, 1908 ('CPC') for bringing on record the additional documents.

1.1. The Petitioner nos. 1 and 2 are defendant nos.2 and 3 respectively; the Respondent No.1 is the plaintiff before the Trial Court.

1.2. The Respondent No.1 has filed civil suit for recovery of possession and permanent injunction on 09.12.2011 with respect to property no. 11/9,



Old Rajinder Nagar, New Delhi.

1.3. The Trial Court vide order dated 13.02.2023 has opined that four (4) documents which the petitioners seeks to place on record at the stage of filing of the replication duly find mention in the plaint; and in these circumstances, the Trial Court has allowed the said application. The operative portion of the impugned order reads as under:

“The plaintiff has moved an application under Order 7 Rule 14 (3) read with Section 151 CPC seeking permission of the Court to bring on record:

- a. Copy of collaboration Agreement dated 10.01.1991 (already referred in Para 8 & 9 of the plaint).*
- b. Copy of D.R.C. Petition (already referred in Para 11 of the plaint).*
- c. Copy of Criminal complaint against Mr. Ajay Malik (already referred in Para 12 of the plaint).*
- d. Copy of the Written Statement filed on behalf of defendant no. 2, Mr. Ajay Malik & Mr. Gurvinder Singh in the matter of Prem Malik v. Sh. Gurvinder Singh & Ajay Malik (already referred in Para 17 of the plaint).*

According to the plaintiff no prejudice will be caused to the defendant as these documents are already referred to in the plaint.

The defendants have however objected to the filing of these documents as no explanation has been given by the plaintiff for producing the documents at this stage.

It is submitted that the present suit was filed in the year 2011 whereas previous suit wherein these documents are filed, in the year 2016. Even though, plaintiff was aware of these documents and was in possession of these documents. No efforts was made to file the same at an appropriate stage thereby causing prejudice to the defendants who did not get any opportunity to explain these documents and as such it is beyond the law of equity. Therefore, defendants pray that the application be dismissed.

Record perused.

The matter is at the stage for filing of the replication, admission denial and framing of issues.

As per the plaintiff, these documents are already filed in the connected case bearing no. 609869/2016, however, no explanation has been given by the plaintiff as to why these documents were not brought on record at the time of filing of the present plaint or at the time of filing of the amended plaint. However, these documents are already referred to in the plaint.



The present application under Order 7 Rule 14 (3) read with Section 151 CPC is allowed subject to the cost of Rs. 7,000/- to be paid to the defendants.”

(Emphasis supplied)

2. The learned counsel for the Petitioners state that the Petitioners have till date not received a copy of the documents which the Respondent No.1 seeks to place on record in terms of the impugned order dated 13.02.2023.

2.1 He further states that since these documents were always in the custody of the Respondent, the same could not have been permitted to be placed on record at the stage of replication, as the Petitioners herein have been denied an opportunity to place their stand on record with respect to the said document.

3. In reply, learned counsel for the Respondent No.1 states that the documents were duly filed with the application, which was filed on 25.03.2021. She states that the application remained pending for two (2) years and at no stage prior to this hearing, the Petitioners raised an objection with regard to the non-supply of the documents. She therefore, contends that the said plea is mischievous and incorrect.

3.1 She states that since these documents were specifically pleaded in the plaint, the Petitioners herein had sufficient opportunity to deal with the said documents in the corresponding paragraphs of the written statement.

3.2 She further states that the stage of admission denial of documents has still not been concluded, and therefore, the Petitioners will have a further opportunity to place their stand on record.

4. This Court has considered the submissions of the parties and perused the record.

5. This Court finds no merit in the submission of the Petitioners that they



had no opportunity to deal with these documents, in view of the fact that the documents which have been allowed to be placed on record were duly referred to in the plaint. The Petitioners herein had sufficient opportunity to deal with the said documents in their written statement. Further, the Petitioners will also have an opportunity to file an affidavit of admission denial of the said documents.

5.1 Further, the documents have been filed at a stage of filing the replication, and therefore, this Court does not find that there is any undue delay in the Respondent No.1's action in bringing these documents on record. The said documents find mention in the plaint and therefore, the Trial Court has rightly permitted the same to be placed on record.

5.2 This Court is also satisfied that the plea raised by the petitioners as regards the non-supply of the documents is not borne out of the record and is incorrect. No such ground has been raised in this petition.

6. This Court is of the opinion that the order passed by the Trial Court is within its jurisdiction and does not warrant any interference of this Court in its supervisory jurisdiction.

7. Accordingly, the present petition is dismissed. Pending application stand disposed of. Interim order dated 20.03.2023 stands vacated.

MANMEET PRITAM SINGH ARORA
(JUDGE)

NOVEMBER 17, 2023

Pa/sk

Click here to check corrigendum, if any