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

% Judgment delivered on: 7.02.2023

+ CM(M) 1142/2022 & CM APPLs. 45970-71/2022

SANDEEP GARG Petitioner

versus

SHRI PRAVEEN KUMAR BANSAL Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Amit Goel, Adv.

For the Respondent : None.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. The petitioner challenges the order dated 20.03.2022 in Civil suit No. 1438/2015 titled as “*Praveen Kumar Bansal Vs. Sandeep Garg*” passed by the learned Trial Court whereby the application under Order VIII Rule 1A r/w Section 151 CPC, 1908 seeking permission to file relevant documents was dismissed.

2. Mr. Goel learned counsel appearing for the petitioner/defendant submits that the documents which are sought to be brought on record did not prejudice the case of the respondent/plaintiff which are:

(i) the reply of the petitioner/defendant in response to the legal notice served by the respondent/plaintiff.

(ii) Copy of purchase order dated 28.09.2011 along with

general terms and conditions,

(iii) invoice dated 11.05.2021,

(iv) email exchanged between the parties as well as M/s. Honeywell Automation India Ltd.

(v) Proforma invoice dated 28.04.2022 along with measurement sheet and certified M.B. received from M/s. Honeywell.

3. Learned counsel submits that the delay in producing the aforesaid documents occurred since these were not traceable at the relevant time and it was neither deliberate nor wilful.

4. This Court has perused the impugned order and has considered the reasoning given therein.

5. It is beyond cavil that the provisions of under Order VIII Rule 1A of CPC, 1908 mandates the defendant to produce documents along with the written statement and it is only in special and extenuating circumstances that the defendant can produce his documents subsequently, though with a caveat that it has to necessarily be, by virtue of the court's permission.

6. Upon a perusal of the application as filed by the petitioner/defendant it is clear that there are no sufficient reasons or grounds given, except to state that the same were not traceable at the relevant time and the said reason is without any material to support the same.

7. On going through the documents, as observed in para 2 above, it is clear that these documents were in possession and custody of the petitioner/defendant even prior to filing the written statement. No

substantial or cogent reason is given in the application at page 15 of the present petition to substantiate or to condone the delay in producing such documents.

8. It is also observed by the learned Trial Court in the impugned order that the said document sought to be filed on behalf of the petitioner/defendant, was attempted to be produced at the stage of petitioner/defendant's evidence after the respondent/plaintiff's evidence was already complete.

Procedures cannot be implemented to cause injustice or prejudice to any party. In the present case to the respondent/plaintiff.

9. Having regard to the fact that respondent/plaintiff's evidence was complete, there is no doubt whatsoever, that the permission to place on record the documents on behalf of petitioner/defendant would seriously prejudice the case of the respondent/plaintiff inasmuch as there would be no occasion for him to respond to the same.

10. In view of above, there is no reason or ground to interfere or any material irregularity exercised by the learned Trial Court while passing the impugned order and the same is upheld.

11. The petition is dismissed with no order as to costs.

12. Pending applications also stand disposed of.

TUSHAR RAO GEDELA, J .

FEBRUARY 7, 2023/ms