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

Date of decision: 15.12.2023

+ CM(M) 2072/2023, CM APPL. 65088/2023 & CM APPL. 65089/2023

IMRAN AKMAL

..... Petitioner

Through: Mr. Zahid Hanif, Advocate

versus

SHAHNAZ KHAN @ SHAHNAAJ KHAN
& ANR.

..... Respondent

Through: Mr. M.N. Siddiqui and Mr. Mashi
Alam, Advocates for R-1

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

CM APPL. 65088/2023 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM(M) 2072/2023 & CM APPL. 65089/2023

1. This petition filed under Article 227 of Constitution of India impugns the order dated 20.11.2023 passed by the ADJ-05, South East District, Saket Court, New Delhi ('Trial Court') in CS DJ No. 267/2022, titled as '**Shahnaz Khan @ Shahnaaj Khan v. Imran Akmal & Anr.**', whereby the Trial Court has dismissed the Petitioner's application filed under Order VIII Rule



1A read with Section 151 of Code of Civil Procedure, 1908 ('CPC') seeking permission to place on record ten (10) documents listed at page no. 87 of this petition.

2. The Petitioner is the defendant and the Respondent is the plaintiff in the civil suit filed for seeking possession, recovery of arrears of rent, damages and permanent injunction.

3. During the course of arguments, learned counsel for the Petitioner states that he is withdrawing his prayer for placing on record documents listed at serial nos. 1 to 6 and is confining the same to the documents listed at serial nos. 7 to 10. He states that the said documents are relevant for deciding the controversy.

4. This Court has considered the submissions of the counsel for the Petitioner and perused the record.

5. In this matter, the plaintiff's evidence was closed on 13.04.2023 and thereafter, the defendant's evidence was also closed on 04.07.2023. Thereafter, when the matter was at the stage of final arguments on 23.08.2023, the Petitioner i.e., defendant herein engaged a new counsel, who filed this application seeking permission to place on record documents sought to be relied upon. The said documents were admittedly, available with the defendant even prior to the commencement of the recording of the evidence of the plaintiff. The said documents were neither confronted to the plaintiff witness nor produced by the defendant in his own evidence.

5.1. Learned counsel for the Petitioner has been forthright and states that these documents are sought to be placed as the new counsel is of the opinion that these are relevant for deciding the controversy.

6. The Supreme Court in *Sugandhi (Dead) by LRs and Anr. v. P.*



Rajkumar¹ has held that as per the provisions of Order VIII Rule 1A Sub-rule (1) the defendant mandatorily has to produce the documents in his possession before the civil court along with his written statement. And, in case the defendant does not file any document or copy thereof along with his written statement, such a document shall not be allowed to be received in evidence on behalf of defendant at the hearing of the suit.

7. In the opinion of this Court, mere change of counsel cannot afford any ground to the Petitioner for invoking the provisions of Order VIII Rule 1A CPC for filing documents at the stage of the final arguments. The documents at sl. nos. 7 to 9 are admittedly, of the year 2021, which is prior to filing of written statement on 03.11.2022 and commencement of trial on 13.04.2023. Therefore, the Petitioner had sufficient opportunity to file the said documents.

8. Further, the present case is a case between landlord and tenant for recovery of possession and arrears of rent. The Petitioner herein is the tenant. The documents at sl. nos. 7 to 10 which the Petitioner seeks to place on reliance are not relevant for the relief of possession and recovery of rent which are pending determination before the Trial Court. The said documents admittedly, do not originate from the Respondent and therefore, the contents of the said documents cannot bind the Respondents.

9. The contention of the Petitioner that he is not liable to pay the rent or that he is not in possession of the suit premises will be determined by the Trial Court after appraising the evidence, which has been led by the parties.

10. This Court, therefore, finds no infirmity in the order passed by the

¹ (2020) 10 SCC 706



Trial Court and accordingly, the present petition is dismissed. Pending applications are disposed of.

MANMEET PRITAM SINGH ARORA, J
DECEMBER 15, 2023/msh/aa

Click here to check corrigendum, if any