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

+ **CM(M)-IPD 5/2024**

M/S UNIFIED VISION CAPITAL LTD. & ORS. Petitioners

Through: Mr. Chander M. Lall, Senior Advocate with Ms. Bitika Sharma, Mr. Lakshay Kaushik and Ms. Heeba Ansari, Advocates.

versus

M/S UV ASSET RECONSTRUCTION COMPANY LTD.

..... Respondent

Through: Mr. Rajshekhar Rao, Senior Advocate with Mr. Gaurav Miglani, Mr. Sharabh Shrivastava, Ms. Anushka Aman, Ms. Taaniyaa Dograa, Mr. Prashant Jain and Ms. Charu Singhal, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

04.04.2024

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1. The present petition under Article 227 of the Constitution of India impugns order dated 22nd February, 2024 passed by District Judge, Patiala House Courts in CS(COMM) No. 134/2022 [***“Impugned Order”***]. The Impugned Order:

(i) Allows the applications filed by the Respondent (Plaintiff therein) under Order XI Rule 1(4) and Order XI Rule 1(5) of the Code of Civil Procedure, 1908 (CPC), as amended by the Commercial Courts Act, 2015, thereby permitting production of additional documents, and;



(ii) Rejects the application under Section 151 of CPC filed by the Petitioners (Defendants therein) seeking to withdraw the affidavit of admission/ denial filed on 13th April, 2022 in respect of documents filed along with the suit by the Respondent [***“Original Affidavit”***], and file fresh affidavit of admission/ denial in compliance with the format prescribed under Order XI Rule 4(2) of CPC [***“Updated Affidavit”***].

2. Although the Petitioners have assailed both the aforementioned directions, however, Mr. Chander M. Lall, Senior Counsel for the Petitioners, has indicated a willingness to accommodate the Respondent’s production of additional documents on record. However, this concession is contingent upon the Petitioners also being permitted to submit a revised affidavit of admission/ denial. Contrarily, Mr. Rajshekhar Rao, Senior Counsel for the Respondent, opposes this request. Arguing in support of the reasoning set out in the Impugned Order, he submits that the Petitioners’ revised affidavit introduces unacceptable variations and effectively modifies the admissions previously made. Therefore, he asserts that the Petitioners’ updated affidavit should not be accepted into the record.

3. On the issue of the Respondent’s additional documents which have been permitted to be taken on record, the Court does not find any error in the reasoning set out in the Impugned Order, which correctly notes that additional documents may be produced subsequent to the filing of a plaint provided reasonable cause is established. Moreover, as recorded at Paragraphs No. 44 and 45 of the Impugned Order, the additional documents in question are in support of and consistent with the pleadings filed by the Respondent/ Plaintiff. Accordingly, the Court finds no reason to interfere with the direction taking the said documents on record, especially



considering the fact that that issues in the suit are yet to be framed.

4. This brings us to the next issue regarding whether the Petitioners should be permitted to update their affidavit of admission/ denial. To illustrate the changes and provide clarity on how the affidavit of admission/denial is being updated, the following tabulation is reproduced:

<i>Details of the Documents</i>	<i>Petitioners' admission/denial from Original Affidavit</i>	<i>Petitioners' admission/denial from Updated Affidavit</i>
<i>Copy of Form-16, salary slips and income declaration letter of one of the Respondents namely Sh. Ajay Kumar showing that he was an earlier employee of Plaintiff's sister concern</i>	<i>Form-16 not denied, status of Ajay Kumar as an employee of Hawk Fincap & Lease Private Limited denied</i>	<i>Admitted to the extent of contents of Form-16 but the salary slips, income declaration, and the status of Ajay Kumar as an employee of Plaintiff's sister concern are denied.</i>
<i>Copy of the salary slip and statement of account of one Respondent namely Shri Nipun Mahajan showing that he was an earlier employee of the plaintiff's sister</i>	<i>Status of Nipun Mahajan as an employee of Hawk Fincap & Lease Private Limited denied.</i>	<i>Admitted to the extent of contents of the statement of account of Nipun Mahajan but plaintiff's interpretation and reliance thereof is denied; the salary slip and status Respondents of Nipun Mahajan as an employee of Plaintiffs sister concern is denied.</i>

5. As evident from the tabulation, in their Original Affidavit, the Petitioners did not deny the authenticity of Form-16. This stance remains unchanged in the Updated Affidavit, where the Petitioners have explicitly admitted the validity of this document. This consistency ensures that there are no grounds for objection to this particular admission. Therefore, allowing the Petitioners to clarify their position *qua* Form 16 only serves the interests of justice by ensuring that all factual positions are accurately



recorded.

6. Furthermore, the employment status of both Mr. Ajay Kumar and Mr. Nipun Mahajan had been denied by the Petitioners in the Original Affidavit, and this stance remains essentially unchanged. The Court notes that the modifications introduced appear to only elaborate on the Petitioners' position in respect of certain documents, i.e. the salary slips and income declaration letters, which were not adequately addressed in the Original Affidavit. Such modifications, while admittedly belated, are nonetheless consistent with the already established stance of the Petitioners whereby they have denied the status of Mr. Kumar and Mr. Mahajan as employees of 'Hawk Fincap & Lease Private Limited'. Accordingly, the Court is of the opinion that the Petitioners ought to be permitted to update their affidavit of admission/ denial.

7. At this juncture, the Court must emphasise the purpose served by admission/ denial in the context of a trial. This procedural tool is designed to streamline the trial process by clearly delineating the documents that are contested and which are agreed upon between the parties, thereby informing both parties of the evidence necessary to substantiate or refute the documents presented, as well as the party upon whom the onus of proving such documents would lie. In this context, the modifications proposed in the Updated Affidavit appear to be intended to provide clearer insight into the Petitioners' stance regarding specific documents. According to the Court's assessment, these clarifications do not constitute a material alteration of the Petitioners' position as previously recorded. Rather, they serve to enhance the transparency and understanding of the Petitioners' responses, aligning with the overarching purpose of admission/denial to aid in narrowing the



focus of the trial to genuinely disputed issues.

8. Accordingly, the Impugned Order dated 22nd February, 2024 is set aside to the extent that it disallows the Updated Affidavit of admission/denial dated 24th May, 2022 filed by the Petitioners/ Defendants. The same is permitted to be taken on record.

9. Disposed of.

SANJEEV NARULA, J

APRIL 4, 2024

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