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

+ CM(M) 473/2022

SHRI SURENDER SINGH

..... Petitioner

Through: Mr. B. S. Chauhan, Adv.

versus

SHRI KAMAL KANT

..... Respondent

Through: Appearance not given.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

19.03.2024

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1. The present petition under Article 227 of the Constitution of India has been filed assailing the order dated 20.11.2021 passed by the court of the CCJ-cum-ARC, Central, Tis Hazari Court, Delhi in Eviction Petition No.E-411/2018 in the case titled as "*Surender Singh vs Kamal Kant*" whereby the petitioner's application under Section 151 of the Code of Civil Procedure, 1908 (hereinafter "CPC") seeking to bring on record certain additional documents has been dismissed.

2. It is submitted that while filing the eviction petition under Section 14(1)(e) of the Delhi Rent Control Act, 1958 the petitioner had filed a Will dated 30.08.2011 along with it which was registered on 01.09.2011, executed by one Sh. Jugminder Dass Jain in favour of the petitioner in respect of the



property where the tenanted premises is situated. Along with the said Will, certain other documents such as the Agreement to Sell, GPA, Affidavit, receipt and possession letter as well as the title documents of the property were executed on 30.08.2011.

3. The learned Trial Court vide its order dated 25.07.2019 granted the respondent leave to contest the eviction petition. The petitioner submits that inadvertently, at the time of filing the eviction petition, certain documents could not be filed, which are essential for a just decision of the case as the respondent has challenged the title of the petitioner *vis-a-vis* the said property. The learned counsel submits that grave prejudice will be caused to the petitioner if the documents are not allowed to be placed on the record. Though the documents were in possession of the petitioner, however, due to inadvertence, he could not place the same on the record. The documents are as follows:

1. *Death Certificate of Late Jugminder Dass Jain dated 17.03.2013 and his wife's death certificate dated 22.12.2005 namely Sheela Devi Jain @ Chander Prabha Jain.*
2. *Agreement to Sell, GPA, Affidavit, receipt, possession letter all dated 30.08.2011.*
3. *Relinquishment Deeds dated 24.04.2010 and 07.05.2010*
4. *Sale Deed dated 21.09.2010.*
5. *Agreement to sale dated 24.10.1980 and Sale Deed dated 19.05.1975*
6. *Assessment letter dated 29.11.2013, mutation receipt with some other house tax receipts dated 13.01.2014, 15.11.2012, 17.02.2014.*
7. *Copy of legal notice dated 20.05.2014 and its reply dated 03.06.2014.*
8. *Copy of order and decree sheet dated 13.01.2017 passed by Sh. V.K. Jha, Civil Judge, Tis Hazari Court, Delhi.*



4. The petitioner submits that when he engaged a new counsel, it was noticed that the abovementioned documents are necessary for the adjudication of the case and thereafter sought to place them on record by moving an application under Section 151 CPC on 26.09.2019.

5. The learned counsel for the petitioner submits that the documents he seeks to bring on record were executed with the registered Will therefore it is imperative that they be taken on record. The learned counsel further states that the petitioner is a layman and did not understand the consequences of non-filing of the said documents by the previous counsel and he should not be made to suffer due to the acts of the previous counsel. Thus, the learned Trial Court has failed to exercise its judicial discretion while deciding the said application and failed to appreciate the provisions under Order XIV Rule 3 of the CPC.

6. The submissions have been strongly opposed by learned counsel for the respondent. It is submitted that no cogent reason has been furnished by the petitioner for not placing the documents on record at the time of filing of the eviction petition despite them being pertinently significant. Simply by saying that it is an inadvertent mistake, is not a befitting ground and the same is impermissible in law. Moreover the documents the petitioner sought to place on record are forged and fabricated. The respondent further states that the documents were deliberately not placed on record at the time of filing the present petition to mislead the court and he is only seeking to delay proceedings before the learned Trial Court.



7. Learned counsel further submits that the petition is malafide and the learned Trial Court has passed a reasoned order and does not call for any interference from this Court

8. A perusal of the impugned order reveals that the learned ARC has dismissed the application solely on the ground that the petitioner failed to show any reason for not filing the documents at an appropriate stage when the same were in his possession.

9. It is relevant to reproduce Order VII Rule 14 of the CPC, which reads as follows:

14. Documents relied on in Plaint.- Production of document on which plaintiff sues or relies

(1) Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint.

(2) Where any such documents not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to document produced for the cross examination of the plaintiff's witnesses, or, handed over to a witness merely to refresh his memory.

10. The position of law is settled to the effect that when a plaintiff files a suit resting his claim on the basis of documents, he is required to file all such documents in his possession or power, when the plaint is presented by him



before the Court. However, if he fails to do so, he is not permitted to place any such documents on record without leave of the Court. The plaintiff is further required to show a valid reason for not producing the documents, which were not in his possession at the time of institution of the suit.

11. In the present case, the contention of the petitioner is that the documents that were in his possession but he could not place the documents with his plaint as being a layman, he did not understand the consequences of not filing of the said documents with the plaint. It was only the new counsel engaged by him had found that the documents, which are relevant to prove his case were not filed at the relevant stage. Thus, the petitioner has sought leave of the Court to place these documents on record. The case is currently at the stage of recording of evidence.

12. Keeping in view the peculiar facts of the present case and in the interest of justice, the petitioner is permitted to place the said documents on record, subject to cost of Rs. 10,000/- to be paid to the respondent. The impugned order is set aside. Consequently, the petition is allowed and disposed of.

SHALINDER KAUR, J.

MARCH 19, 2024/ss/f