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

+ **C.R.P. 341/2024 & CM APPL. 67330/2024**

PUNEET BERIWALA

.....Petitioner

Through: Mr. Anil Agarwalla, Advocate.

versus

RAJKUMAR KAPOOR(D)THR LRS AND ORS.Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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20.11.2024

CM APPL. 67331/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. The Application is disposed of.

C.R.P. 341/2024

3. The present Revision Petition under *Section 115 of the Code of Civil Procedure, 1908 (hereinafter referred to as "CPC, 1908")* has been filed on behalf of the Petitioner-Defendant No. 3 against the Order dated 11.11.2024 *vide* which the Application under *Order VIII Rule 1A of CPC, 1908* seeking to place on record the following documents, has been dismissed. The documents are:

- (i) Application for Membership along with undertaking (marked),
- (ii) Share Certificate issued by Defendant No. 1,
- (iii) Letter dated 27.09.1987 from Defendant No. 1 to Defendant No.3,
- (iv) Letter dated 02.03.1988 from the Defendant No. 3 to Defendant



No. 1,

(v) Letter dated 14.04.1988 from the Defendant No. 3 to Defendant No. 1,

(vi) Letter dated 14.04.1988 from Defendant No. 3 to Defendant No. 1.

4. The main contention of learned counsel for the Petitioner-Defendant No. 3 is that the existence of the aforesaid documents has neither been denied by the Respondent No.1-Plaintiff nor by the Society.

5. The Document at Serial No. 1 is the Application for Membership along with undertaking and the Document at Serial No. 2 is the Share Certificate consequently issued by the Respondent No. 6/Defendant No.1-Society. The remaining Documents from Serial Nos. 3 to 6 are the correspondence exchanged between the Respondent No. 6/Defendant No. 1-Society and the Petitioner-Defendant No. 3.

6. Pertinently, it is a case whereby the Respondent No. 1-Plaintiff has challenged the allotment of the membership by the Respondent No. 6-Defendant No. 1-Society to the Petitioner-Defendant No. 3. All the aforesaid documents which are referred to, were not only mentioned in the Written Statement, but were well within the possession of the Respondent No. 6-Defendnat No. 1-Society.

7. The learned Civil Judge has rightly observed that the aforesaid documents could have been sought from the Respondent No. 6-Defendant No. 1-Society also.

8. Now, the aforesaid documents are purported to be brought on record on the pretext that they have been recently discovered by the Petitioner-Defendant No. 3. Such explanation after 33 years of filing the Suit



and that too when the matter is listed for the evidence of Defendant No. 3, is held rightly to be not tenable or acceptable and the same is intended to further delay the proceedings.

9. In view of above, there is no merit in the present Revision Petition which is hereby dismissed along with pending Application.

NEENA BANSAL KRISHNA, J

NOVEMBER 20, 2024

S.Sharma