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

+ CM(M)-IPD 5/2023 with CM APPL. 19916/2023

JAIN SHIKANJI PRIVATE LIMITED

.....Petitioner

Through: Mr. Vipin Rana, Advocate.

versus

SATISH KUMAR JAIN

.....Respondent

Through: Mr. Gaurav Barathi, Mr. Harsh Gupta
and Ms. Amita Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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21.02.2025

1. The present petition has been filed under Article 227 of the Constitution of India seeking quashing/ setting aside of the impugned order dated 1st March, 2023 passed by the learned District Judge (Commercial Court), East District, Karkardooma Courts, Delhi in CS(COMM) 171/2021 to the extent where the application filed on behalf of the petitioner/ defendant under Order XI Rule 1 of the Code of Civil Procedure, 1908 seeking to place on record additional documents has been dismissed.

2. The Commercial Court has dismissed the aforesaid application on the ground that the aforesaid documents were in power, possession and control of the petitioner at the time of filing of the written statement and therefore, there was no reason why they could not have been filed earlier. The documents sought to be placed on record are detailed in paragraph no.3 of the application filed by the petitioner and the same are set out below:



- (i) *“Dissolution of partnership ‘Jain Shikanji’ dated 23.05.1996.*
- (ii) *Death Certificate of the Father of Plaintiff.*
- (iii) *Copy of Cross Examination of Mr. Swadesh Kumar Jain Brother of the Plaintiff dated 03.03.2011 in Suit No. 309 of 2008 pending before Hon’ble Civil Judge, Ghaziabad.”*

3. It is stated in the application that the aforesaid documents could not be filed with the written statement as the same was filed in haste. Counsel for the petitioner submits that the necessary averments in respect of the aforesaid documents have been made in paragraphs no.19 and 20 of the written statement.

4. It is to be noted that the written statement in the suit was filed on 18th October, 2021 and the aforesaid application for placing additional documents on record has been filed on 24th November, 2022.

5. It is an admitted position that issues are yet to be framed in the suit.

6. Mr. Gaurav Barathi, counsel appearing on behalf of the respondent/ plaintiff, submits that he does not object to take the aforesaid documents no.2 and 3 on record. However, he has reservations for taking the aforesaid document no.1 on record, which, he claims, is a forged and fabricated document and is contrary to the pleadings in the suit filed by the respondent herein against Mr. Pradeep Jain and Mrs. Beena Jain (father and mother of Mr. Anubhav Jain, the petitioner’s director) before the Ghaziabad court.

7. Having heard counsel for the parties, it is borne out that the aforesaid documents are in consonance with the case set up by the petitioner in the written statement. Further, issues are yet to be framed in the suit. Therefore, it would be in the interest of justice if the aforesaid documents are permitted to be taken on record.

8. Insofar as delay in filing the application for placing on record the



aforesaid documents is concerned, the respondent can be compensated by way of costs. Accordingly, the aforesaid documents are permitted to be taken on record, subject to the costs of Rs. 20,000/- to be paid by the petitioner to the respondent within two (2) weeks from today.

9. Needless to state that the aforesaid documents are taken on record, subject to the respondent's objections with regard to the relevance and genuineness of the aforesaid documents.

10. The present petition stands disposed of in the aforesaid terms.

AMIT BANSAL, J

FEBRUARY 21, 2025

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