

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-3862-2026(O&M)

MGF Developments Ltd.

...Petitioner(s)

Vs.

Cosmo Propbuild Pvt. Ltd. & Others

...Respondent(s)

The date when the judgment is reserved	11.05.2026
The date when the judgment is pronounced	18.05.2026
The date when the judgment is uploaded on the website	18.05.2026
Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full Judgment

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Argued by:- Mr. Sanjeev Sharma, Senior Advocate with
Mr. Amandeep Sigh Talwar, Advocate;
Mr. Vikram Vir Sharda, Advocate
Mr. Jugansh Goyal, Advocate
for the petitioner.

Mr. RS Rai, Senior Advocate (through V.C.)
Mr. Aashish Chopra, Senior Advocate with
Ms. Rubina Vermani; Ms. Rupa Pathania, Advocate;
Mr. Abhinav Kaushik, Advocate;
Mr. Himanshu Kashyap; Advocate;
Mr. Randeep Khaira, Advocate;
Mr. Arjun S. Rai, Advocate; and
Ms. Prachi Gupta, Advocate
for respondents No. 1 to 6.

NIDHI GUPTA, J.

Present Revision Petition has been filed by the plaintiff laying

challenge to the order dated 21.04.2026 (Annexure P-21) passed by the

learned Additional Civil Judge (Senior Division), Gurugram; whereby



application filed by the respondents/defendants No.1 to 7 under Section 151 CPC for placing on record Additional Affidavit along with documents, has been allowed.

2. The sequence of events in chronological order is as follows: –

16.05.2016: A Demerger Scheme was formulated between Emaar MGF Land Ltd. (Demerged Company) and MGF Development Ltd (Resulting Company). The appointed date for the Scheme was closing hours of 30.9.2015. The Suit land formed part of the Demerged Undertaking. It is the case of the petitioner that the Defendants/Respondents 1- 7 through Mr. Basant Bansal, Roop Kumar Bansal and Pankaj Bansal expressed interest in exchanging 31.12 acres of land in village Chauma, District Gurugram which formed part of this de-merged undertaking coming to the Plaintiff. The terms of transaction included payment of consideration in form of money in addition to exchange of land. Negotiations commenced with subsidiaries of Emaar, namely Messrs Sparsh Promoters, Sandesh and Sidhant.

18.11.2016: Civil Suit No.2536 of 2016 titled as Ms. Sparsh Promoters, Sandesh and Sidhant Vs. Cosmo, Surya, Star City, Neer and Vibrant – (all Subsidiaries) came to be filed allegedly because the Bansals attempted to exercise rights even before an understanding was formalised.



23.11.2016: A Compromise deed was executed between M/s Sparsh Promoters & Ors. And Cosmo & Ors. On 23.11.2016, five Exchange deeds were executed between M/s Sparsh Promoters & Ors. And Cosmo & Ors.

09.12.2016: Based on the compromise, a Lok Adalat Award was passed. (Both the plaint and the compromise deed form part of the Award).

31.12.2017: Plaintiff asserts that a third set of cheques towards exchange replaced the earlier ones.

27.03.2018: It is also the case of the petitioner that the Cheques presented towards discharge of liability for land exchange, were dishonoured.

28.03.2018: Letters were issued by subsidiaries - Sparsh to Messrs. Neer Builders, Surya Propcon, Cosmo Propbuild, Starcity Realtech/present defendants - intimating that cheques have not been honoured and hence the Exchange Deeds have been rendered void. It was contended that there was automatic cancellation of the Exchange Deeds which would be void ab-initio on account of failure to honour the payment as, payment for the exchange of the land was not made. The Defendants/Respondents took a stand that while they issued the 1st and 2nd set of cheques, the 3rd set was not issued but signed cheques which were misplaced fell into the hands of the plaintiff and were presented.

08.01.2018/16.07.2018: The NCLT approved the Scheme with the appointed date of 30.9.2015; while approving the Scheme (corrected on 16



July 2018). The scheme was filed before the Registrar on 31.07.2018. It became effective from the appointed date.

27.08.2021: MGF (Plaintiff) on coming to know that the Defendants/Respondents had applied for licence on about 4.5 Acres of land which formed part of the Exchange, filed a complaint to DG, DTCP, Haryana regarding application submitted by Defendants/Respondents.

13.12.2021: MGF filed CWP 25534 of 2021 in the High Court alleging that the DTCP was not being fair in hearing the complaint; and challenging the Lok Adalat Award.

19.04.2022: CWP 25534 of 2021, was partly allowed by this Court. The complaint of the Plaintiff was referred to a different officer for decision. As regards the challenge to the Award, the writ was dismissed while leaving other remedies open.

04.05.2022: RA-CW-73-2022 filed by MGF in CWP 25534 of 2021, was dismissed by holding that order was clear and did not call for clarification.

30.05.2022: Complaint dated 27.08.2021 filed by MGF was dismissed by Director Urban Local Bodies while relying on the very Exchange Deeds which are subject matter of the present suit.

01.07.2022: Petitioner filed present Civil Suit bearing No. 2886 of 2022 (Annexure P-1), titled “MGF Developments Ltd. Vs. Cosmo Propbuild Pvt. Ltd. and Others”, before the Ld. Trial Court seeking inter alia a decree of permanent injunction, mandatory injunction and declaration against the



Respondents restraining them from interfering in the alleged peaceful possession of Petitioner over the Suit Property and restraining them from claiming any rights under the Exchange Deeds.

05.08.2022: 4.5 acres of the Suit land formed part of licence no.106 of 2022.

09.08.2022: Defendants No. 1 to 6 filed Application u/Order 7 Rule 11 CPC.

01.09.2022: Plaintiff filed reply to Application under O7 R11.

09.09.2022: In the meantime, an Application under O23 R3A CPC was filed by MGF in Civil Suit No. 2536 of 2016 for setting aside Compromise deed 23.11.2016 and Award dated 09.12.2016. In the said Application, Defendants tried to make payment – which was ordered to be kept in FDR.

20.12.2022: Respondents No. 8 to 10 (LOCs) filed application (IA No. 04 of 2022 in CM-600 of 2022 in the said O23 R3A application) seeking release of the FDRs.

22.12.2022: IA No. 04 of 2022 as well as main application bearing CM-600 of 2022, both were disposed of. The Application under O23 R3A and application for release of FDR were both dismissed.

13.07.2023: Against the above order dated 22.12.2022, petitioner/MGF filed CR 858 against dismissal of O 23 R 3A; and CR 33 of 2023 was filed by LoC's against order dated 22.12.2022. Both the above said Civil Revision petitions were dismissed by this Court. Thus, the application filed by Plaintiff under Order 23 Rule 3A CPC stood rejected; while the demand for



release of money deposited by present Defendants/Respondents in favour of Defendants was also rejected.

August 2023: SLP No(s). 21462/2023 was filed by the Plaintiff against the dismissal of CR 858 of 2023; and 2nd SLP filed by the LoC's in CR 33 of 2023 challenging the rejection of the Execution Application.

15.09.2023: In the meantime, in the present CS-2886-2022 in the application filed by the petitioner under Order 39 Rules 1 and 2 CPC, an initial Injunction is granted to the Plaintiff/petitioner by the Trial Court.

25.09.2023: Reply to O39 R 1&2 is filed by the respondents claiming 735 residential apartments have been sold.

16.10.2023: Ultimately, the Application under O39 R1&2 CPC, in CS-2886-2022, was dismissed by the Trial Court.

17.11.2023: The petitioner filed Civil Miscellaneous Appeal No.283 of 2023 against rejection of interim injunction vide order dated 16.10.2023.

06.02.2024: In the SLP No(s). 21462/2023 and 2nd SLP filed by LoC's, the Hon'ble Supreme Court noted that the Plaintiff has been relegated to the present suit and directed that the first Appellate Court to decide the Appeal pertaining to O 39 R 1 and 2 without being influenced by previous orders.

05.04.2024: Pursuant to Supreme Court directions the Id. Additional District Judge allowed the appeal bearing number CMA No.283 of 2023, filed by the Petitioner herein challenging the order dated 16.10.2023, whereby the



application under Order XXXIX Rule 1 & 2 of CPC was dismissed by Ld. Trial Court; and injunction was granted to the petitioner.

27.05.2024: In the meantime, the Learned Trial Court allowed the application under Order VII Rule 11 of CPC filed by the Respondents herein on the ground that the Suit filed by Petitioner herein is barred under Order XXIII Rule 3, law of limitation and res judicata.

August 2024: Against the above order dated 27.5.2024, the petitioners filed CMA-435-2024, with an application for condonation of 38 days delay.

13.01.2025: Vide order dated 13.1.2025, Application for condonation of the delay in the filing of appeal against order dated 27.05.2024 was dismissed.

09.04.2025: The petitioner filed RSA 1086 of 2025 against 13.01.2025 and also preferred an application under O41 R5 seeking interim stay. This Court set aside the order dated 13.01.2025 and directed the LAC to decide the appeal against O7R11 on merits; while granting an injunction till disposal of the appeal. The matter was remanded, but while remanding the matter, this Court ordered that no third-party rights shall be created by either party during the pendency of the appeal. The order dated 13.01.2025 was set aside, subject to Petitioner paying cost of INR 1,00,000/- to Respondents.

22.04.2025: Defendants/Respondents felt aggrieved by the grant of said injunction by this Court; and filed a Review No. 21 of 2025 in RSA No. 1086 of 2025, asserting that grant of injunction was not called for.



24.04.2025: Review No. 21 of 2025 in RSA No. 1086 of 2025, filed by Cosmo was dismissed by this Court. The proceedings in the appeal are expedited.

02.05.2025: SLP No. 12455 of 2025 filed by Cosmo against order dated 09.04.2025 and 24.04.2025 was dismissed by the Hon'ble Supreme Court.

28.05.2025: Ld. First Appellate Court allowed the CMA No.435 of 2024. Order dated 27.05.2024 was set aside. O7 R 11 CPC application was rejected; and Suit was Restored.

02.07.2025: Present application under Order 39 Rule 4 was filed by the respondents seeking modification etc., of the interim injunction dated 05.04.2024.

07.07.2025: The petitioner filed Application under Order 8 Rule 10 CPC for striking of defence for non-filing of Written Statement within 90 days of appearance.

10.07.2025: Reply to application under Order 8 Rule 10 CPC is filed by the Defendants/Respondents 1-7 along with the Written Statement.

15.07.2025: As the Petitioner/Plaintiff felt that it was not provided with a fair opportunity to respond to the application under O. 39 R. 4 and matter was being fixed after 5 days, the Petitioner filed CR-4286-2025 seeking more time for filing a reply, which came up for hearing on 15.07.2025 and this Court was pleased to grant time till 25.07.2025.

25.07.2025: Plaintiff filed a reply to the application under O39 R 4 CPC.



07.08.2025: The respondent then filed SAO No. 45 of 2025 against order dated 28.05.2025, whereby their application under Order 7 Rule 11 CPC was dismissed and suit was restored.

24.09.2025: This Court dismissed the SAO No. 45 of 2025 vide order dated 24.09.2025 by holding that the plaint filed by the Petitioner discloses a cause of action and prima facie there exists a triable issue in the case of the Petitioner and permitted continuation of the suit.

06.12.2025: Respondents filed SLP (C) 38531 of 2025 laying challenge to the order dated 24.9.2025 passed in SAO 45 of 2025.

09.01.2026: SLP (C) 38531 of 2025 dismissed inter-alia recording that:

“We have heard the Ld. Senior Counsel appearing for the parties.

We do not find any ground to interfere with the impugned order passed by the High Court. However, the observation made in the impugned order will have no bearing in the further proceedings.

We request the Learned Trial Court to dispose of the pending suit within a period of 12 months from the date of receipt of a copy of this order. With the aforesaid observations, the special leave petition is dismissed.”

02.02.2026: Ld. Additional Civil Judge, Gurugram vide its order dated 2.2.2026, dismissed the application filed by the Petitioner under Order VIII Rule 10 of CPC and allowed the Written Statement filed on behalf of Respondents no.1 to 7 to be taken on record.



20.03.2026: Ultimately, after almost 9 months, arguments commenced on the application under O39 R4 CPC. Matter is kept for 03.04.2026 after partly hearing the arguments.

02.04.2026: At this stage, respondents file CR-2869-2026 before this Court laying challenge to the order dated 05.04.2024 granting injunction in favour of the plaintiff. The Respondents expressed to this Court that they will be satisfied if the said CR-2869-2026 is disposed of with the direction to the learned Court below to decide the same in a time bound manner. Consequentially, CR-2869-2026 was not pressed on merits and was disposed of with direction that the application under O39 R4 CPC be decided expeditiously, preferably within a period of 6 weeks.

03.04.2026: On 03.04.2026, further arguments on the application under O39 R4 were heard.

10.04.2026: On 10.04.2026 matter was heard at length, and an Application under Section 151 of CPC is filed on behalf of Respondents no.1 to 7 seeking permission to bring on record additional affidavit and documents annexed thereto. Order dated 10.04.2026 is passed by Ld. Additional Civil Judge, Gurugram in CS 2886 of 2022 inter alia recording that an application under Section 151 is filed on behalf of Respondents no.1 to 7 to bring on record additional affidavit and documents annexed thereto.



18.4.2026: Petitioner files reply to application under Section 151 filed on behalf of the Respondent no.1-7 but not to the contents of the additional affidavit and documents annexed thereto.

21.4.2026: Impugned Order dated 21.04.2026 is passed by Ld. Additional Civil Judge in CS 2886 of 2022 allowing the application under Section 151 filed on behalf of Respondent no.1 to 7 bringing on record additional affidavit along with documents.

24.4.2026: Order dated 24.04.2026 passed by Ld. Additional Civil Judge, Gurugram in CS 2886 of 2022 inter alia recording that Petitioner herein sought time to file reply to additional affidavit and documents.

01.05.2026: Present Civil Revision Petition is filed.

02.05.2026: Order passed stating that matter stands adjourned to 11.05.2026 for filing reply to additional affidavit by the plaintiff and arguments on application under Order 39 Rule 4 CPC.

3. It is inter alia submitted by learned Senior Counsel for the petitioner that the facts narrated above clearly show that the Defendants have intentionally proceeded in a manner to bring an element of surprise and prevent due opportunity and fair hearing in the matter to the petitioner. It is clear that a Civil Revision challenging the injunction order dated 05.04.2024 was filed in October 2025. The Defendants chose not to prosecute the same. It was kept under objections. At the same time, the Defendants chose to prosecute their application under Order 39 Rule 4 CPC



filed on 02.07.2025, that too only on 20.03.2026. Initially, the Defendants showed extreme emergency and even objected to grant of a three-week period to the Plaintiff to file reply. Only upon intervention by this Court with passing of order dated 15.07.2025, the Plaintiff/Petitioner was granted a fair opportunity to file a response, which was done on 22.07.2025. No urgency was expressed till March 2026 and arguments on the application commenced only on 20.3.2026. After the arguments had started, CR 2869 of 2026 challenging the injunction order was listed on 2.4.2026 wherein, without any basis in the pleadings, it was expressed that there has been delay in the adjudication of the application under Order 39 Rule 4 CPC. This Court vide order dated 02.04.2026 was pleased to direct that the application under Order 39 Rule 4 CPC may be decided, expeditiously and preferably within a period of six weeks. It is submitted that on the next date that is 03.04.2026, the arguments continued before the Learned Trial Court. Further arguments were heard on 10.04.2026; and at the fag end of the day and conclusion of arguments of the Defendants, an application under section 151 CPC was filed seeking to place on record additional documents in the form of an additional affidavit. Ld. Senior Counsel contends that at this stage, considering the direction of this Court to conclude hearing in 6 weeks, the Defendants extracted undue advantage and surprise with the last minute filing of pleadings and documents that have been in existence since much prior to the dispute and are only in possession of the



Defendants. It is contended that these facts clearly reflect the malafide with which the Defendants have proceeded. Even during the passing of the order dated 02.04.2026, no such intention to place on record any additional document was expressed. It is argued that it is settled law that a party cannot be permitted to take benefit of its own wrongs and that too to the prejudice of the other. The Defendants had sufficient time and opportunity to place on record any documents. These opportunities were never availed. Thus, present application was an abuse of the process of law and liable to be dismissed.

4. Ld. Senior counsel for the petitioner further submits that Defendants had no right to place on record documents which were in existence much prior to the filing of the written statement. Further, no leave to file documents/permission could have been granted by the Court under S.151 considering that the application had to be filed under O8 R1A (3) CPC.

4.1 The Order 8 R1A places an obligation on the Defendants to place on record all documents that it considers relevant to the controversy involved in the suit. In the present case, the Defendants sought to place these documents on the record as accompanying documents to an additional affidavit filed in the application under order 39, rule 4.

4.2 In the facts of the case, such an application was not maintainable under section 151 as the matter of filing of documents is governed by substantive provisions of the Code contained in O.8 R 1A.



4.3 On this issue the Id. Trial Court in para 6 of the impugned order has returned a finding in favour of the petitioner and held that where there is a substantive provision, the provisions of S. 151 will not be applicable.

4.4 In paragraph 8 the Learned Trial Court returned a finding that the provisions of Order 8 Rule 1A are applicable. However, they do not bar the filing of the application, and it is for the Court to either allow or disallow the prayer for placing on record documents.

4.5 In the present case, there was no application under Order 8 rule 1A that had been filed by the Defendants and thus, the finding of the Learned Trial Court is completely incorrect and perverse.

4.6 Further, the application under section 151 does not disclose the nature of the document, the necessity of placing them on record and any reasons for the delay in placing on record these documents.

4.7 In any case, it was not open for the Learned Trial Court to consider the application as an application under Order 8 Rule 1A. The discretion if any, which vested in the Learned Trial Court cannot be exercised, arbitrarily and without application of mind to the facts of the case. The inherent powers under S. 151 were not available or invocable.

4.8 It is submitted that the Ld. Trial Court rightly relied on **State of Uttar Pradesh and Others Vs. Roshan Singh (Dead) by Lrs. and Others (2008) 2 SCC 488** and **Suresh and Ors. Vs. Hari Dutt (deceased) and Ors. 2025(4) RCR(Civil) 374** to conclude as follows:



“From the above discussed law, it is clear that once specific provisions have been provided under Code of Civil Procedure, then aid of Section 151 CPC cannot be taken. Section 151 CPC is attracted only when there is no provision in the Code of Civil Procedure governing the subject matter.”

However, failed to apply the law.

5. Ld. Senior counsel for the petitioner further submits that the application under section 151 (Annexures P19A) for placing on record an additional affidavit that acts to add, alter and amend the pleadings under Order 39 Rule 4 application, after the hearing in the matter had commenced, was not maintainable. Even if the application is considered to be maintainable, it does not disclose any reason for the delay in filing of the additional affidavit, and is silent on any reasons for filing the same at the last moment or grounds as to why the documents be taken on record.

5.1 It is contended that the Learned Trial Court has erred in holding that the pleadings only supplement assertions made in the application under order 39 rule 4 CPC. A comparison of the pleadings in the application and the additional affidavit would show the clear attempt to introduce new facts, which have no basis in the early application.

5.2 The Ld. Trial Court failed to appreciate that the substantiation of the pleadings can only take place when evidence is adduced by way of affidavit, and an opportunity of cross examination is granted to the opposite side. The taking on record of the additional affidavit in effect amounts to



amendment of pleadings of the application under Order 39 Rule 4. Thus, the indirect manner of achieving this result by the Defendants is wholly unsustainable in the eye of law.

6. The Learned Trial Court has committed a grave error of fact in coming to the conclusion that the documents are only to “supplement arguments” and cannot be termed to introduce any material in form of pleadings/ evidence.

6.1 One can only supplement an argument with case law or precedent etc but cannot be stretched to mean production of documents.

6.2 On this erroneous premise, the Learned Trial Court holds that the documents can be taken on record. The Learned Trial Court has held that since the documents existed prior to the filing of the O.39 R4, and thus these cannot be considered as new documents.

6.3 It is submitted that such finding is in direct contravention of the settled position of law that a party has to bring all facts before the Court at the time of filing of the Application. If these facts are introduced, at the far end of the hearing, they are to be considered as new documents proposed to be entered for the first time, and their admission has to be tested accordingly.

6.4 The order of the Court does not even refer to the documents that are to be placed on record and therefore, the Court failed to appreciate



that they cannot be filed at this stage and have no basis in the pleadings of the Application under O.39 R.4 CPC.

6.5 Each document had to be tested on its own regarding its availability and relevance at the time of filing of the application under O. 39 R. 4 CPC. The fact that the relevance of the documents is to be seen later, does not absolve the Defendants from filing the same in accordance with the provisions of the CPC.

7. The Id. Trial Court while stating that the ‘validity’ of the said documents is to be seen at the time of adjudication of the application under Or. 39 R. 4 is erroneous. Once these documents have been taken on record it would not be possible to question their validity at the time of arguments – this is to be ascertained only at the stage of granting leave to file them.

7.1 The Learned Trial Court has already held the documents to be material, without any pleading that goes to show that they were.

7.2 The observation of the Learned Court amounts to putting the cart before the horse as the documents have been taken on record by granting leave without any pleading or prayer for the same.

8. Assuming for arguments that the Learned Trial Court could suo moto treat the S.151 application to be one under O8 R 1A, even then it could not have done so without cautioning the Petitioner of its intent and seeking objections to the mode of treatment of the application.



8.1 Because the rights to raise objection to an application under O8 R 1A are very different from those that were taken by the petitioner and had it been aware that the Learned Court was to adopt this mode, then objections would have been taken accordingly.

8.2 The question of granting leave could not arise when the application is not one filed under O8 R1A.

9. Section 151 is not a panacea for all ills which are to be treated otherwise and under a well-established procedure and also states that the power under this provision is to be exercised to 'prevent abuse of the process'. It is contended that in the current proceedings which are challenged, the Id. Court has permitted such abuse rather than preventing it by granting leave to file without putting Petitioner to notice of its intent.

10. Further, the Id. Court accepted the contention of the Plaintiff that once specific provisions have been provided in the CPC then aid of S.151 cannot be taken. S. 151 is attracted only when there is no provision in the CPC governing the subject matter based on the judgments relied.

11. Learned Senior Counsel for the petitioner relies upon judgment of this Court in **Suresh v. Hari Dutt (deceased), (Punjab And Haryana) : Law Finder Doc ID # 2777621**, wherein it is held that:-

"6. Per contra learned counsel for the plaintiff-respondent No.1 would contend that the defendants availed more than 25 effective opportunities for leading their evidence including secondary evidence however, they failed to examine the said



witnesses and now have filed the present application for additional evidence. Hence, no fault can be found with the order passed by the Trial Court.

7. Heard.

8. In the present case, defendant Nos.1 to 6 (petitioners and proforma respondent No.2 herein) set up a Will dated 28.04.2014 alleged to have been executed by Smt. Bharpai. A specific issue was framed being issue No.4 the onus of which was cast upon defendant Nos.1 to 6 (petitioners and proforma respondent No.2 herein). Once the onus of the issue was cast upon defendant Nos.1 to 6 (petitioners and proforma respondent No.2 herein) they were to lead their evidence in the affirmative to prove the execution of the Will dated 28.04.2014. Having failed to do so, defendant Nos.1 to 6 (petitioners and proforma respondent No.2 herein) filed the present application for additional evidence. A copy of the application has been supplied in Court today by learned counsel for the plaintiff-respondent No.1 as it was not appended with the present revision petition. A perusal of the same reveals that there is not a whisper in the application as to why the said evidence could not be produced earlier. It has simply been stated that the applicants wish to produce the affidavits of the attesting witnesses, publication record qua sanctioning of mutation No.1642 relating to village Dhunda and the orders passed by Assistant Collector 1st Grade concerned.

9. After deletion of Order XVIII Rule 17A CPC by the Code of Civil Procedure (Amendment Act, 1999) (46 of 1999) w.e.f. 01.07.2002, the amended provisions of the Code contemplate and expect a Trial Court to hear the arguments immediately



after the completion of evidence and then proceed to deliver the judgment. Hon'ble Supreme Court in the case of K.K. Velusamy v. N. Palanisamy [2011 (11) SCC 275] has considered the fact of deletion of Order XVIII Rule 17A and observed that power under section 151CC will have to be used with circumspection and care only where it is absolutely necessary, when there is no provision in the Code governing the nature, when bonafides of the applicant cannot be doubted, when such exercise is to meet the ends of justice and to prevent the abuse of process of Court. Their Lordships summarized the scope of section 151 CPC as follows:

"10. The respondent contended that section 151 cannot be used for re-opening evidence or for recalling witnesses. We are not able to accept the said submission as an absolute proposition. We however agree that section 151 of the Code cannot be routinely invoked for reopening evidence or recalling witnesses. The scope of section 151 has been explained by this Court in several decisions (See: Padam Sen V. State of UP-AIR 1961 SC 218; Manoharlal Chopra v. Seth Hiralal - AIR 1962 SC 527; Arjun Singh v. Mohindra Kumar - AIR 1964 SC 993; Ram Chand and Sons Sugar Mills (P) Ltd. v. Kanhay Lal - AIR 1966 SC 1899; Nain Singh v. Koonwarjee - 1970(1) SCC 732; The Newabganj Sugar Mills Co.Ltd. v. Union of India - AIR 1976 SC 1152; Jaipur Mineral Development Syndicate v. Commissioner of Income Tax, New Delhi – AIR 1977 SC 1348; National Institute of Mental Health & Neuro Sciences v. C Parameshwara - 2005 (2) SCC 256; and Vinod Seth v. Devinder Bajaj – 2010 (8) SCC 1). We may summarize them as follows:



(a) Section 151 is not a substantive provision which creates or confers any power or jurisdiction on courts. It merely recognizes the discretionary power inherent in every court as a necessary corollary for rendering justice in accordance with law, to do what is 'right' and undo what is 'wrong, that is, to do all things necessary to secure the ends of justice and prevent abuse of its process.

(b) As the provisions of the Code are not exhaustive, section 151 recognizes and confirms that if the Code does not expressly or impliedly cover any particular procedural aspect, the inherent power can be used to deal with such situation or aspect, if the ends of justice warrant it. The breadth of such power is coextensive with the need to exercise such power on the facts and circumstances.

(c) A Court has no power to do that which is prohibited by law or the Code, by purported exercise of its inherent powers. If the Code contains provisions dealing with a particular topic or aspect, and such provisions either expressly or necessary implication exhaust the scope of the power of the court or the jurisdiction that may exercised in relation to that matter, the inherent power cannot be invoked in order to cut across the powers conferred by the Code or a manner inconsistent with such provisions. In other words the court cannot make use of the special provisions of Section 151 of the Code, where the remedy or procedure is provided in the Code.

(d) The inherent powers of the court being complementary to the powers specifically conferred, a court is free to exercise them for the purposes mentioned in Section 151 of the Code when the matter is not covered by any specific provision in the



Code and the exercise of those powers would not in any way be in conflict with what has been expressly provided in the Code or be against the intention of the Legislature.

(e) While exercising the inherent power, the court will be doubly cautious, as there is no legislative guidance to deal with the procedural situation and the exercise of power depends upon the discretion and wisdom of the court, and the facts and circumstances of the case. The absence of an express provision in the code and the recognition and saving of the inherent power of a court, should not however be treated as a carte blanche to grant any relief.

(f) The power under section 151 will have to be used with circumspection and care, only where it is absolutely necessary, when there is no provision in the Code governing the matter, when the bona fides of the applicant cannot be doubted, when such exercise is to meet the ends of justice and to prevent abuse of process of court.

11 to 15 xx xx xx

16. We may add a word of caution. The power under section 151 or Order 18, Rule 17 of the Code is not intended to be used routinely, merely for the asking. If so used, it will defeat the very purpose of various amendments to the Code to expedite trials. But where the application is found to be bona fide and where the additional evidence, oral or documentary, will assist the court to clarify the evidence on the issues and will assist in rendering justice, and the court is satisfied that non-production earlier was for valid and sufficient reasons, the court may exercise its discretion to recall the witnesses or permit the fresh evidence. But if it does so, it should ensure that the process



does not become a protracting tactic. The court should firstly award appropriate costs to the other party to compensate for the delay. Secondly the court should take up and complete the case within a fixed time schedule so that the delay is avoided. Thirdly if the application is found to be mischievous, or frivolous, or to cover up negligence or lacunae, it should be rejected with heavy costs. If the application is allowed and the evidence is permitted and ultimately the court finds that evidence was not genuine or relevant and did not warrant the reopening of the case recalling the witnesses, it can be made a ground for awarding exemplary costs apart from ordering prosecution if it involves fabrication of evidence. If the party had an opportunity to produce such evidence earlier but did not do so or if the evidence already led is clear and unambiguous, or if it comes to the conclusion that the object of the application is merely to protract the proceedings, the court should reject the application. If the evidence sought to be produced is an electronic record, the court may also listen to the recording before granting or rejecting the application."

12. It is accordingly prayed that the present Revision petition be allowed, and the impugned order be set aside.

13. *Per Contra* learned Senior Counsel for the respondents submits that vide the impugned order, it has been directed as follows: –

"10. Thus, in view of the above discussion, the application for placing on record additional documents and additional affidavit moved by applicants/defendant no.1 to 7 stands allowed. However, liberty is granted to the plaintiff to file reply to the pleadings taken in additional



affidavit in order to argue on main application under Order 39 Rule 4 CPC.”

14. It is contended that, therefore, no prejudice has been caused to the petitioner as adequate opportunity has been granted to him to file reply to the additional affidavit.

15. It is submitted that therefore, the limited issue that arises for consideration in the present Civil Revision is whether the Ld. Civil Judge has rightly allowed the application filed by the Respondents for bringing on record an additional affidavit along with documents, by way of an application under Section 151 CPC. Especially keeping in view, the fact that the said application has been filed by the Respondents for the purposes of hearing of the application filed by Respondents under Order XXXIX Rule 4 CPC pending adjudication before Ld. Trial Court.

16. At the very outset, it is submitted that the present Civil Revision, invoking the supervisory jurisdiction of this Hon’ble Court under Article 227 of the Constitution of India, is wholly misconceived and not maintainable. It is settled law that the jurisdiction under Article 227 is supervisory and not appellate in nature, to be exercised sparingly only in cases of patent perversity, jurisdictional error, manifest injustice, or an error apparent on the face of the record. The said jurisdiction cannot be invoked to challenge every interlocutory or procedural order passed by the Ld. Trial Court merely because a party is dissatisfied with the same. ***[Shalini Shyam Shetty vs Rajendra***



Shankar Patil (2010) 8 SCC 329 Para 67; Jai Singh vs Municipal Corporation of Delhi (2010) 9 SCC 385 Para 15 to 17 and Estralla Rubber vs Dass Estate (P) Ltd. (2001) 8 SCC 97 Para 6-7]

17. It is further submitted that the Impugned Order does not suffer from any such infirmity warranting interference. The Ld. Trial Court has merely permitted the Respondents to bring on record an additional affidavit along with documents which are germane to, and arise directly from, the issues involved in the pending application under Order 39 Rule 4 CPC, for effective adjudication thereof. Significantly, the Ld. Trial Court has expressly granted liberty to the Petitioner to file a reply to the said affidavit/documents, thereby ensuring complete procedural fairness and opportunity of response. No prejudice is caused to the Petitioner. Thus, in the absence of any jurisdictional error, perversity, or error apparent on the face of record, the present petition is liable to be dismissed at the threshold.

18. It is further submitted that this Court, vide order dated 02.04.2026 had directed expeditious disposal of the application under Order XXXIX Rule 4 CPC, preferably within six weeks. The present petition, assailing a purely procedural order passed in aid of adjudication of the said application, is nothing but an attempt to delay the proceedings.

19. Ld. Senior counsel for the respondents further submits that the application seeking to bring on record an additional affidavit along with documents has been rightly filed under Section 151 CPC in the pending



application under Order 39 Rule 4 CPC. Section 151 CPC confers wide inherent powers upon the Court, including the inherent jurisdiction to permit additional documents/material to be brought on record where such material is necessary for effective adjudication and to secure the ends of justice. In such circumstances, the inherent powers of the Court under S. 151 CPC can validly be invoked to pass such orders as may be necessary for the ends of justice and to ensure complete and effective adjudication of the controversy.

20. Ld. Senior counsel argues that the Petitioner erroneously seeks to conflate the present issue with Order VIII Rule 1A CPC by contending that all documents ought to have been filed along with the written statement. The said contention is wholly misplaced. Firstly, the present application does not arise in the context of completion of pleadings, but in the adjudication of a pending application under Order 39 Rule 4 CPC, wherein the Respondents sought to place material germane to the issues arising therein. Secondly, even without prejudice to the aforesaid, Order VIII Rule 1A itself contemplates that documents not filed earlier may be brought on record with the leave of the Court.

21. It is settled law that procedural provisions are handmaids of justice, and the Court's inherent powers under Section 151 CPC remain available to permit bringing on record material necessary for proper adjudication, where the same advances the cause of justice and causes no prejudice to the opposite party. In the present case, the documents sought to be brought on



record arise directly from, and are intrinsically connected with, the controversy involved in the pending Order XXXIX Rule 4 application. The Ld. Trial Court has exercised its discretion judiciously in permitting the same to be placed on record to aid effective adjudication.

22. Significantly, the Impugned Order itself grants express liberty to the Petitioner to file a reply to the additional affidavit/documents. Thus, full opportunity has been afforded to the Petitioner, and no prejudice or injustice whatsoever has been caused. In such circumstances, the challenge to the Impugned Order is entirely misconceived. No prejudice is caused to the Petitioner or pleaded in case the documents are brought on record, so the Civil Revision is misplaced.

23. It is further submitted that, as specifically recorded by the Ld. Trial Court in paragraph 9 of the Impugned Order, all documents annexed to the additional affidavit find clear reference in the Respondents' application filed under Order XXXIX Rule 4 CPC. The said documents have not been introduced to set up any fresh case, alter the nature of the existing proceedings, or take the Petitioner by surprise. Rather, the documents merely emanate from and are intrinsically connected with the case already pleaded by the Respondents in the pending application under Order XXXIX Rule 4 CPC. The limited purpose of bringing the said documents on record is only to substantiate and bolster the Respondents' existing case in the Order XXXIX Rule 4 proceedings, and to assist the Ld. Trial Court in effective and complete



adjudication of the issues arising therein. The Impugned Order, therefore, reflects a proper exercise of judicial discretion aimed at ensuring that the controversy is adjudicated on the basis of all relevant material, rather than in a truncated manner.

24. It is further pertinent to note that several of the documents sought to be brought on record are public and official documents in nature, including layout plans, registered gift deeds executed with State authorities, and applications for grant of licences submitted before the competent State authorities. The remaining material, including current photographs depicting the Respondents' ongoing projects situated on the Suit Land, is merely demonstrative material placed on record to reflect the present factual position on the ground. None of the said documents are of a clandestine or surprise nature so as to cause any prejudice to the Petitioner.

25. It is pointed out that in the present Civil Revision, the Petitioner has, *inter alia*, sought stay of the hearing of the application under Order XXXIX Rule 4 CPC till adjudication of the present Revision Petition. The said relief sought is directly contrary to, and in the teeth of, the binding judicial directions already operating in the matter. The interim stay granted causes grave prejudice to the Respondents. Thus, it is necessary that the application under Order XXXIX Rule 4 CPC maybe decided expeditiously.

26. It is reiterated that this is especially so as this Court, vide order dated 02.04.2026 passed in the earlier revision proceedings between the



parties, had specifically directed expeditious disposal of the application under Order XXXIX Rule 4 CPC, preferably within a period of six weeks. Further, the Hon'ble Supreme Court, vide order dated 09.01.2026 passed in SLP (C) No. 38531 of 2025, directed disposal of the suit itself within a period of one year. Admittedly, neither of the aforesaid orders has been challenged by the Petitioner and the same continue to bind the parties.

27. In such circumstances, the present Revision Petition, seeking to stall adjudication of the application under Order XXXIX Rule 4 CPC itself, is nothing but a calculated attempt to delay the proceedings, multiply rounds of litigation, and frustrate the timelines fixed by this Hon'ble Court and the Hon'ble Supreme Court. Instead of permitting adjudication of the pending application on merits, the Petitioner has chosen to assail a purely discretionary procedural order, passed in aid of adjudication, which causes no prejudice whatsoever and expressly preserves the Petitioner's full right of response. Such orders ordinarily do not warrant interference under Article 227 of the Constitution of India.

28. The present challenge is directed against a purely discretionary procedural order passed by the Ld. Trial Court in aid of adjudication, which preserves the Petitioner's full right of response. Such orders ordinarily do not warrant interference under Article 227. The present proceedings, therefore, are a clear abuse of process and deserve to be rejected with costs.



29. In rebuttal, learned Senior Counsel for the petitioner has submitted that there is not a single line in the instant application (Annexure P19A) as to why said application for placing on record additional affidavit should be allowed especially when it has been moved at belated stage in the midst of arguments. As regards argument of the learned Senior Counsel for the respondents in respect of the jurisdiction under Article 227 of the Constitution, learned Senior Counsel for the petitioner has contended that there is an error apparent in the impugned order inasmuch as the legal question of giving an opportunity to the petitioner in terms of Order 8 Rule 1A CPC has not been satisfied. It is contended that the question is the relevance of the documents now sought to be produced by the respondents at a highly belated stage after almost one year of filing of application under Order 39 Rule 4 CPC and as to why the said documents were not produced when application under Order 39 Rule 4 CPC was filed.

30. No other argument is made on behalf of the parties. I have heard learned Senior counsel and given my thoughtful consideration to the rival submissions advanced on behalf of the parties. I find merit in the submissions advanced of the Id. Senior Counsel for the respondents.

31. The first contention raised on behalf of the petitioner is that respondents are deliberately trying to protract the trial as, despite the fact that injunction had been granted in favour of the petitioner vide order dated 05.04.2024, yet application under Order 39 Rule 4 CPC had been filed



by the respondents only on 02.07.2025. It has also been contended that even though defendant filed written statement at a highly belated stage, all documents were not included with the written statement. Therefore, conduct of the respondents disentitles them to any exercise of discretion by the Court to place on record any additional pleadings or documents.

However, the said contention of the petitioner is misleading as a perusal of the case timeline enumerated hereinabove shows that the present CS-2886-2022 was filed on 1.7.2022; whereafter respondents had filed an application under Order 7 Rule 11 CPC on 9.8.2022; which was allowed by the learned trial Court and plaint came to be rejected vide order dated 27.5.2024; against which petitioner filed CMA-435-2024, which was allowed only on 28.5.2025 and suit was restored; whereafter respondents filed application under Order 39 Rule 4 CPC on 2.7.2025; and written statement was filed by the respondents on 10.7.2025. Repeated submission on behalf of the petitioner that written statement was filed more than 90 days after service of summons is misleading as Question of filing written statement or any application under Order 39 Rule 4 CPC in the interregnum did not arise as plaint stood rejected. Thus, there does not appear to be any apparent delay on part of the respondents. Even a perusal of the zimni orders (Annexure P16 and P17) ranging from 25.07.2025 to 20.03.2026 shows that matter has primarily been adjourned at request of both parties. In this regard, it is also pertinent to note that the petitioner had preferred



an application dated 7.7.2025 under Order 8 Rule 10 CPC, praying for striking of defence of the respondents; which was dismissed vide order 2.2.2026. Nothing has been brought to the notice of this Court that the said order dated 2.2.2026 has been challenged by the petitioner. Therefore, imputation of the petitioner in respect of deliberately delaying conduct of the respondents is fractious.

32. The second contention on behalf of the learned Senior Counsel for the petitioner is that in the midst of arguments in application under Order 39 Rule 4 CPC, the respondents had preferred application dated 10.04.2026 (Annexure P19-A) for placing on record additional Affidavit on behalf of defendants No.1 to 7 thereby catching the petitioner by surprise; and vide the said application, the respondents had sought permission only to place on record an additional Affidavit, and not any additional documents. However, even the said contention is misleading - and is based on a piecemeal reading of the application dated 10.4.2026. A perusal of the averments made in Paras 2 and 3 of the said application read as follows: -

“2. That the Applicants filed a Written Statement to the present suit filed by the Plaintiff. The Applicants crave leave of this Hon'ble Court to rely upon the contents of the Written Statement filed on behalf of the Applicants as the same are not being repeated herein for the sake of brevity.

3. That the present application is being filed on behalf of the Applicants for placing on record an additional affidavit on behalf of Defendant no.1 to 7 dated 10.04.2026 on record



which is necessary and relevant for the just and effective adjudication of the application filed by the Applicants under Order XXXIX Rule 4 of the Code of Civil Procedure, 1908. The said affidavit along with the documents annexed thereto have a direct bearing on the issues arising in the interim proceedings and are essential for a proper appreciation of the facts and circumstances by this Hon'ble Court."

33. Thus, a complete reading of the above extract of the instant application dated 10.04.2026 (Annexure P19/A) filed under Section 151 CPC shows that along with the said affidavit, respondents had duly sought to place on record documents as well. The respondents have categorically stated in Para 2 and 3 above that the Affidavit is filed "*along with documents annexed thereto*" which have a direct bearing on the issues arising in the interim proceedings. Respondents have further categorically stated that the said documents are necessary and relevant for the Just and effective adjudication of the application of the respondents under Order 39 Rule 4 CPC. Therefore, contention of the petitioner that vide the said application respondents had only sought to bring on record an additional affidavit, is misleading and incorrect.

34. The next contention of the petitioners that the said documents have no '*basis to previous pleadings*'; and that '*new and fresh averments were permitted to be added*', or that petitioner has been caught by surprise, is also factually incorrect. It has also been argued on behalf of the petitioner



that Id. Trial Court has held the documents to be material, without any pleading that goes to show that they were relevant. These contentions of the petitioner are incorrect. Firstly, the substrate for the present additional documents has already been laid by the respondents in their application dated 2.7.2025/P-10 filed under Order 39 Rule 4 CPC, wherein pleadings have been made with reference to the documents now sought to be placed on record. Relevant extract/pleadings of the respondents in said application under Order 39 Rule 4 CPC dated 02.07.2025 (Annexure P10) is as follows:-

“16. That pursuant to the issuance of licenses by DCP from time to time, Applicants carried out the development on the land forming part of suit property. It would also be germane to mention that after having obtained Licenses, various sanctions and permissions pursuant to payment of exorbitant fee/cess/charges have also been obtained. Various projects namely M3M Capital Phase-1, M3M Capital Phase-2, M3M Capital Phase-3, M3M Mansion, M3M Mansion PH- 2, Smartworld One DXP Street, Smartworld One DXP, Smartworld One DXP Phase-2 are part of the aforementioned Licenses and over the land forming part of the Suit Land. Third-party rights stand in the form of thousands of home buyers stand created in respect of the Projects, after having obtained Registration Certificates from Haryana Real Estate Regulatory Authority, Gurugram. Substantial development has taken place subsequent to the sanctioning of the layout plans pertaining to the Projects. As such the Applicants have been carrying out their obligations, which are time sensitive, under the licenses



granted to them. Attached are photographs of the development and construction by the Applicants as Annexure A-4."

17. That on account of the facts delineated above, it is submitted that the circumstances in which the injunction had been granted against the Applicants, have changed considerably which is also on account of the fact that the injunction order had been granted to the Plaintiff on 05.04.2024, but the same was in effect only till 27.05.2024 and from 27.05.2024 till 09.04.2025 there had been no order of injunction against the Applicants. In the interregnum period the Applicants, who have been found to have a clear and marketable title by the competent authorities, had been granted various sanctions for carrying out development of the land which is part of the suit property. Furthermore, the Applicants are under a bounden duty to carry out the statutory obligations under the Licences granted to them in a time bound manner and had to thus carry out with the development activities. Thus, at this stage, it is necessary to allow the Applicants to continue its activities qua the Suit property and accordingly the injunction order needs to be discharged/set aside as there has been an evident change in circumstances from the time the injunction order dated 05.04.2024 had been passed against the Applicants."

35. Thus, respondents have clearly demonstrated that documents annexed to the additional affidavit find reference in the original application filed by the respondents under Order 39 Rule 4 CPC. By no stretch of the imagination, can it be said that new facts have been pleaded or introduced



in the present additional affidavit or that the petitioner has been caught by surprise. In any event, the trial court shall ascertain the relevancy of these said documents.

36. Moreover, upon a detailed perusal of the said applications (Annexures P-10 and P19-A) it is seen that reference is made to various documents such as Registration Certificates; Licences granted by the DTCP; pursuant to which various sanctions and permissions were given after payment of fee/cess/charges; and pursuant to which third-party rights have been created by the respondents in the projects undertaken by the respondents after obtaining Registration Certificates/licenses from the Haryana Real Estate Regulatory Authority, Gurugram. Accordingly, the respondents now only seek to place on record the following documents as already mentioned in the applications: -

S.No.	PARTICULARS	PAGES
1.	Additional Affidavit on behalf of defendant No.1 to 7	1-9
2.	Annexure-1 A copy of the application dated 21.06.2018	10-12
3.	Annexure-2 A copy of the amendment application dated 06.09.2018	13-14
4.	Annexure-3 Copy of licence application dated 18.07.2019 Annexure 3A Copy of Tabular chart	15 16-17
5.	Annexure-4 (Colly) Copies of TDR certificates	18-20
6.	Annexure-5	21-27



	A copy of the registered Gift Deed dated 30.01.2023 by defendant No.3 i.e. Starcity Realtech Private Ltd. to the Governor, State of Haryana for 1.9875 acres situated in the revenue estate of Sector 113- Village Chauma, Gurgaon	
7.	Annexure-6 A copy of the Registered Gift Deed dated 30.01.2023 by defendant No.5 i.e. Vibrant Infratech Private Ltd. along with Targe Buildcon Limited to the Governor, State of Haryana for 2.309375 acres situated in the revenue estate of Sector 113 – Village Chauma, Gurgaon	28-35
8.	Annexure-7 Layout plan of Sector 113, Gurugram	36
9.	Annexure-8 (Colly) Photographs demonstrating construction over the suit land	37-43
10.	Annexure-9 (Colly) Layout plans of the projects -M3M Capital, M3M One DXP Street and M3M Mansion Phase 1	44-46
11.	Annexure-10 (Colly) A copy of the Certificate by Chartered Accountants showing costs incurred in various projects	47-48
12.	Proof of Service	

37. Details of the above-said documents are borne in the accompanying Affidavit; pleadings in respect of which already find mention in the application under Order 39 Rule 4. Thus, the defendants have duly disclosed in their application, the relevance of the documents with the dispute at hand. From the above facts, it is also clear that vide the said Affidavit, and the documents annexed therewith, the respondents are only



substantiating the claims made by them in the application dated 02.07.2025 (Annexure P10) filed under Order 39 Rule 4 CPC; inasmuch as respondents are primarily demonstrating grant of licenses; development of project; and expenses incurred by the respondents in the development of the said projects i.e. buttress their plea of subsequent events/change in circumstance, as required to be shown under Order 39 Rule 4 CPC for modification of injunction.

38. In this view of the matter, no leave in terms of Order 8 Rule 1A CPC was required to be sought from the Court as contended. The petitioner has raised a legal objection that the aforesaid documents could not have been brought on record merely by way of application/affidavit; and the same could have been brought on record only by way of an application under Order 8 Rule 1A (3) CPC after taking leave of Court. It has been contended that failure to do so, has resulted in great prejudice to the petitioner as petitioner has been denied the opportunity to lead evidence to the contrary; and the same is therefore an abuse of process of Court and is not maintainable. However, again, there is no merit to the said argument.

39. Order 8 Rule 1A reads as follows: -

“(1) Where the Defendants/Respondents bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set-off or counter-claim, he shall enter such document in a list, and shall produce it in Court when the written statement is



presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

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

[(3) A document which ought to be produced in Court by the Defendants/Respondents under this rule, but, is not so produced 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 documents—

(a) produced for the cross-examination of the plaintiff's witnesses, or

(b) handed over to a witness merely to refresh his memory.]”

40. A bare reading of the above provision shows that leave of the Court is required to be taken where the respondent/defendant has failed to produce a document on which his defence is based along with his written statement. In the present case, respondents are not seeking to produce the documents along with their written statement/defence; but are only seeking to supplement the pleadings made by them in their application under Order 39 Rule 4 CPC. The documents sought to be produced by the respondents do not form part of the written statement; but rather to supplement and substantiate the averments made by them in their application dated 2.7.2025 (Annexure P10).



41. It needs no gainsaying that Order 8 Rule 1A applies to documents supporting the "defence"/written statement; whereas an application under Order 39 Rule 4 is an interlocutory proceeding to vary/set aside an injunction based on new circumstances, not just a 'defence', which allows for fresh evidence. Therefore, documents in support of an application under Rule 4 are liable to be accepted if they are relevant to the change in circumstance. As noted above, in the present case, the documents sought to be produced by the respondents prima facie reflect changed circumstance. Therefore, while the spirit of providing documents early exists, the strict procedural constraints of Order 8 Rule 1A would not be applicable to interlocutory applications filed under Order 39 Rule 4 CPC.

42. The argument on behalf of the petitioner is misconceived also because under Sub-rule 3 procedural discretion is granted to the Court, and second opportunity is granted to the defendant to take on record documents which are necessary for proper adjudication. As held by the Hon'ble Supreme Court in case titled – **Sugandhi (Dead) v. P. Rajkumar (SC)**

: Law Finder Doc Id # 1756721:

"7.Sub-rule (1) mandates the defendant to produce the documents in his possession before the court and file the same along with his written statement. He must list out the documents which are in his possession or power as well as those which are not. 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 the defendant at the hearing of the suit. However, this will not apply to a document produced for cross-examination of the plaintiff's witnesses or handed over to a witness merely to refresh his memory. Sub-rule (3) states that a document which is not produced at the time of filing of the written statement, shall not be received in evidence except with the leave of the court. Rule (1) of Order 13 of C.P.C. again makes it mandatory for the parties to produce their original documents before settlement of issues.

8. Sub-rule (3), as quoted above, provides a second opportunity to the defendant to produce the documents which ought to have been produced in the court along with the written statement, with the leave of the court. The discretion conferred upon the court to grant such leave is to be exercised judiciously. While there is no straight jacket formula, this leave can be granted by the court on a good cause being shown by the defendant.

9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under sub-rule (3)."



43. Reference may also be made to another judgment of the Hon'ble Supreme Court in **Levaku Pedda Reddamma v. Gottumukkala Venkata Subbamma, (SC) : Law Finder Doc Id # 2008070** to clarify the applicability of the provision of Order 8 Rule 1A. In this case, the Andhra Pradesh High Court affirmed the order passed by the trial Court refusing to permit the defendant to produce additional documents in terms of Order VIII Rule 1A(3) of the Code of Civil Procedure, 1908. The defendant approached the Apex Court; and Their Lordships held as follows: –

“5. We find that the trial Court as well as the High Court have gravely erred in law in not permitting the defendants to produce documents, the relevance of which can be examined by the trial Court on the basis of the evidence to be led, but to deprive a party to the suit not to file documents even if there is some delay will lead to denial of justice.

6. It is well settled that rules of procedure are hand-maid of justice and, therefore, even if there is some delay, the trial Court should have imposed some costs rather than to decline the production of the documents itself.

XXX XXX XXX

8. Mr. Nazki states that the plaintiffs-respondents should be permitted to lead additional evidence, if any, on the basis of the documents now produced by the defendants. We accept the request. The Plaintiff shall lead additional evidence, if any, before the defendants are given an opportunity to lead evidence to rebut the evidence produced by the plaintiff.”



Therefore, from the above it is clear that in the present facts and circumstances of the case, reliance of the petitioner upon the provision of Order 8 Rule 1A CPC is misconceived. At the risk of repetition, it is reiterated that the said documents are only supplemental to the arguments, averments, and pleadings already raised by the respondents in their application under Order 39 Rule 4 CPC dated 2.7.2025.

44. Needless to say, an application under Order 39 Rule 4 CPC can even be filed before the filing of written statement. Therefore, if the respondent wants to substantiate its application under Order 39 Rule 4 CPC, he can surely not be prevented from doing so by way of filing additional affidavit and documents. Vide the additional affidavit and the documents annexed thereto, the respondent has merely substantiated his averments in Annexure P10 by demonstrating that substantial development has taken place on ground, and third-party rights have been created. The averments of the respondents are already contained in the application (Annexure P10); which have merely been buttressed vide the instant additional affidavit. By way of example, it is mentioned that the instant additional affidavit also contains two documents from the Chartered Accountant certifying the expenses incurred by the respondent in undertaking the above-said development. Therefore, all the averments are already contained in the application (Annexure P10), which are merely being supplemented by Annexure P19A; which has been filed by the respondents to aid and assist



the Ld. Trial Court in the hearing and adjudication of the application filed under Order 39 Rule 4 CPC.

45. Furthermore, Order 8 Rule 1A CPC is a substantive provision; whereas Section 151 CPC is a procedural provision conferring vast powers upon the Court to ensure Justice; and is therefore to be liberally construed; as held by the Hon'ble Supreme Court in celebrated judgment of **"K.K. Velusamy Vs. N. Palanisamy" (2011) 11 SCC 275**, that:-

"11. There is no specific provision in the Code enabling the parties to reopen the evidence for the purpose of further examination-in-chief or cross-examination. Section 151 of the Code provides that nothing in the Code shall be deemed to limit or otherwise affect the inherent powers of the court to make such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the court. In the absence of any provision providing for reopening of evidence or recall of any witness for further examination or cross-examination, for purposes other than securing clarification required by the court, the inherent power under Section 151 of the Code, subject to its limitations, can be invoked in appropriate cases to reopen the evidence and/or recall witnesses for further examination. This inherent power of the court is not affected by the express power conferred upon the court under Order 18 Rule 17 of the Code to recall any witness to enable the court to put such question to elicit any clarifications.

12. The respondent contended that Section 151 cannot be used for reopening evidence or for recalling witnesses. We are not able to accept the said submission as an absolute proposition.



We however agree that Section 151 of the Code cannot be routinely invoked for reopening evidence or recalling witnesses. The scope of Section 151 has been explained by this Court in several decisions [see Padam Sen v. State of U.P, Manohar Lal Chopra v. Seth Hiralal, Arjun Singh v. Mohindra Kumar, Ram Chand and Sons Sugar Mills (P) Ltd. v. Kanhayalal Bhargava, Nain Singh v. Koonwarjee, Newabganj Sugar Mills Co. Ltd. v. Union of India, Jaipur Mineral Development Syndicate v. CIT, National Institute of Mental Health & Neuro Sciences v. C. Parameshwaral and Vinod Seth v. Devinder Bajaj']. We may summarise them as follows:

(a) Section 151 is not a substantive provision which creates or confers any power or jurisdiction on courts. It merely recognises the discretionary power inherent in every court as a necessary corollary for rendering justice in accordance with law, to do what is "right" and undo what is "wrong", that is, to do all things necessary to secure the ends of justice and prevent abuse of its process.

(b) As the provisions of the Code are not exhaustive, Section 151 recognises and confirms that if the Code does not expressly or impliedly cover any particular procedural aspect, the inherent power can be used to deal with such situation or aspect, if the ends of justice warrant it. The breadth of such power is coextensive with the need to exercise such power on the facts and circumstances.

(c) A court has no power to do that which is prohibited by law or the Code, by purported exercise of its inherent powers. If the Code contains provisions dealing with a particular topic or aspect, and such provisions either expressly or by necessary



implication exhaust the scope of the power of the court or the jurisdiction that may be exercised in relation to that matter, the inherent power cannot be invoked in order to cut across the powers conferred by the Code or in a manner inconsistent with such provisions. In other words the court cannot make use of the special provisions of Section 151 of the Code, where the remedy or procedure is provided in the Code.

(d) The inherent powers of the court being complementary to the powers specifically conferred, a court is free to exercise them for the purposes mentioned in Section 151 of the Code when the matter is not covered by any specific provision in the Code and the exercise of those powers would not in any way be in conflict with what has been expressly provided in the Code or be against the intention of the legislature.

(e) While exercising the inherent power, the court will be doubly cautious, as there is no legislative guidance to deal with the procedural situation and the exercise of power depends upon the discretion and wisdom of the court, and in the facts and circumstances of the case. The absence of an express provision in the Code and the recognition and saving of the inherent power of a court, should not however be treated as a carte blanche to grant any relief.

(f) The power under Section 151 will have to be used with circumspection and care, only where it is absolutely necessary, when there is no provision in the Code governing the matter, when the bona fides of the applicant cannot be doubted, when such exercise is to meet the ends of justice and to prevent abuse of process of court.”



46. I also find merit in the argument advanced on behalf of the respondents to the effect that the supervisory jurisdiction under Article 227 of the Constitution of India can be resorted to only in a situation where *“grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice”* is made out. Reliance in this regard is placed upon judgment of Hon’ble Supreme Court in **“Estralla Rubber Vs. Dass Estate (P) Ltd.” (2001) 8 SCC 97**, wherein it is held that:-

“6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or



tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.

*7. This Court in **Ahmedabad Mfg. & Calico Ptg. Co. Ltd. v. Ram Tahel Ramnand** in AIR para 12 has stated that the power under Article 227 of the Constitution is intended to be used sparingly and only in appropriate cases, for the purpose of keeping the subordinate courts and tribunals within the bounds of their authority and, not for correcting mere errors. Reference also has been made in this regard to the case Waryam Singh V. Amarnath. This Court in Bathutmal Raichand Oswal v. LaxmibaiR. Tarte has observed that the power of superintendence under Article 227 cannot be invoked to correct an error of fact which only a superior court can do in exercise of its statutory power as a court of appeal and that the High Court in exercising its jurisdiction under Article 227 cannot convert itself into a court of appeal when the legislature has not conferred a right of appeal. Judged by these pronounced principles, the High Court clearly exceeded its jurisdiction under c Article 227 in passing the impugned order.”*

47. The aforesaid view has been reiterated by the Hon’ble Supreme Court in **“Garment Craft Vs. Prakash Chand Goel” (2022) 4 SCC 181**, wherein it is held that: -

“15. Having heard the counsel for the parties, we are clearly of the view that the impugned order is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under



Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to re-appreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice.”

48. Even otherwise, no prejudice has been caused to the petitioner as, in Para 10 of the impugned order dated 21.04.2026, the trial Court has granted liberty to the petitioner *“to file reply to the pleadings taken in additional affidavit in order to argue on main application under Order 39 Rule 4 CPC”*. It is pertinent to note that even prior to the passing of the Impugned Order the Petitioner had already filed its reply dated 18.04.2026 to the application under Section 151 CPC seeking to bring on record the additional affidavit and documents. Despite this, and notwithstanding the liberty



expressly granted thereafter by the Ld. Trial Court to file a reply to the additional affidavit and documents themselves, the Petitioner has chosen not to do so, and has instead instituted the present proceedings, thereby unnecessarily delaying the adjudication of the pending application under Order 39 Rule 4 CPC. While simultaneously decrying the delay allegedly caused by the respondents in the disposal of the said application, despite express directions of this Court for expeditious disposal. It is also pertinent to note that the Civil Suit is presently at the stage where pleadings are yet to be completed, and the Petitioner has not yet filed its replication.

49. In the present case, the petitioner has not been able to make out any ground that calls for exercise of supervisory jurisdiction of this Court under Article 227 of the Constitution of India.

50. The judgment relied upon by learned Senior Counsel for the petitioner in **Suresh (supra)** is distinguishable on facts and law.

51. In view of the above discussion, the present Revision Petition stands **dismissed**.

52. Pending application(s) if any also stand(s) disposed of.

18.05.2026
Sunena

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes

(Nidhi Gupta)
Judge