



2025:DHC:4993



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 04th February, 2025Pronounced on: 18th June, 2025CM(M) 1533/2023, CM APPL. 48374/2023 STAY & CM
APPL. 48376/2023

PRADEEP BAILEY

....Petitioner

Through: Mr. Brijballabh Tiwari and Mr.
Anish Shrestha, Advs alongwith
petitioner in person

versus

GILMA DANIEL

.....Respondent

Through: Mr. Arvind Bhatt and Mr.
Kuber Giri, Advs.**CORAM:-****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****RAVINDER DUDEJA, J.**

1. This is a petition under Article 227 of the Constitution of India read with Section 151 of the Code of Civil Procedure, 1908 ["CPC"], seeking to set aside the order dated 17.05.2023 ["**impugned order**"], passed by learned District Judge in Suit bearing No. CIV.DJ No. 697/2019, whereby, the learned trial court dismissed the application under Order 7 Rule 14 read with Section 151 CPC, filed by the petitioner/plaintiff.

2. Shorn of all unnecessary details, the brief facts leading to the filing of the present petition are that in the year 2017, petitioner filed a



suit for recovery of possession, permanent & mandatory injunction as well as mesne profit in respect of portion of property bearing No. WZ-5A/31, Vishnu Garden, New Delhi [**“Suit Property”**] except one shop against the respondent, who was allegedly allowed to reside in the property as a licensee. Respondent filed the written statement on 18.12.2019. Thereafter, petitioner filed replication along with the additional documents and petitioner also filed an application under Order 7 Rule 14 read with Section 151 CPC to place on record the additional documents. Respondent filed reply to the said application, stating that the documents were not filed along with plaint and that allowing them to be placed on record now, would cause irreparable loss to the respondent, as she will not have an opportunity to rebut such documents. The trial court vide impugned order dated 17.05.2023, dismissed the application on the ground that petitioner failed to justify the non-filing of the documents at an appropriate stage. Not being satisfied with the impugned order, petitioner filed the present petition. The relevant extract of the impugned order dated 17.05.2023 is reproduced below:-

“The plaintiff seeks to place on record the payment slips of the cemetery and the expenses towards grave. However it is noted that both the receipts in the name of plaintiff is written in completely different handwriting from the handwriting of other portion of the receipts which prima facie shows that the name is filled later on. Moreover, the reasons for placing on record the said receipt are not explained in the application.

As regards, the property tax receipts in some of which name of plaintiff is mentioned as property owner are dated between 2012 to 2017. However, the application is silent why the said documents were not placed with the plaint and why they were not mentioned in the replication, even though the defendant has claimed her



ownership and also claimed that she was paying the house tax etc. in respect of the suit property.

The plaintiff has also sought permission to place on record copies of two WILLs which are dated 19.02.2000 and 24.08.2000. However, the application is silent why the said documents were not filed with the plaint. During arguments counsel for plaintiff had stated that the said documents could not be filed due to negligence of previous counsel of the plaintiff. However, the said submissions does not find mention in the application or the plaintiff has not placed on record any action taken against the said negligence of his previous counsel.

The documents pertaining to the stated business of tent house being run by plaintiff that the said documents were untraceable.

The documents regarding pay slip of Smt. Roma Bailey which is stated to be wife of plaintiff, are of no consequences to the present proceedings. Similarly the documents of Delhi Jal Board and Electricity department are also having no relevancy to the present proceedings. The application is also silent for what purpose the plaintiff wants to place on record the electricity and water bills.

The power Under Order 7 Rule 14 CPC is to be exercised only when plaintiff is able to show that the said documents were either not in his possession at the time of filing of the suit or said documents were not within his knowledge. Merely stating that due to negligence of previous counsel, the documents could not be placed on record that too after filing of replication and framing of issues when the matter has reached the stage of plaintiff evidence, is apparently an attempt to improve the case of the plaintiff. The judgments cited by Ld. counsel for plaintiff have no applicability to the facts of the present case as in the matter of Kapil Kumar Sharma (supra) as Hon'ble Supreme court has allowed the additional documents to be taken on record when the matter has reached the stage of cross examination. However, in the present case the plaintiff has failed to justify the reasons for not filing the documents on record. Similarly in the judgment of Nishant Hannan & Ors. (supra) is also not giving applicability to the facts of the present application.

Accordingly, I am satisfied that plaintiff has failed to justify the non-filing of the documents at the appropriate stage of trial and therefore, the application U/o 7 Rule 14 CPC stands dismissed.”

3. Learned counsel for the petitioner submits that the impugned order dated 17.05.2023 passed by the trial court is arbitrary, illegal and



against the facts and laws applicable as the court failed and ignored to consider/appreciate relevant facts and documents produced by the petitioner. He asserts that petitioner has countered the false averments of the respondent in her written statement on the basis of the relevant documents like electrician license, membership of All Delhi Tent Traders Welfare Association, house tax receipts etc. He further submits that some documents like Wills dated 19.09.2000 & 24.08.2000 were not in power and possession of the petitioner at the time of filing of the plaint and were handed over by the sister in law of the petitioner in May 2022 and hence were not filed with the plaint. It is submitted that these documents are crucial for petitioner to prove his case and counter the averments of the respondent. Further, since the case is at an initial stage and evidence has yet not begun, no prejudice would be caused by allowing the application for filing additional documents, which are stated to be material documents for the purpose of proper adjudication of the suit.

4. Petitioner has placed reliance on the case of ***Kapil Kumar Sharma Vs. Lalit Kumar Sharma and Anr.***, in *Civil Appeal No.2330/2009, arising out of SLP (C) No.17249 of 2008* and ***Nishant Hannan & Ors Vs. South Delhi Municipal Corporation***, in *CM (Main) No.262/2014*.

5. Learned counsel for respondent not only advanced oral arguments but also supplemented them by filing written submissions. *Per contra*, he has submitted that by operation of Will dated 17.11.1994, the deceased mother of the parties bequeathed the suit



property to the respondent, and therefore, she is the owner of the property. She allowed her brother i.e. the petitioner to live in part of the suit property as a licensee. It has been submitted that petitioner filed replication/reply to the written statement of the respondent along with fresh documents including the copies of the alleged Wills dated 19.09.2000 & 24.08.2000, such documents were filed belatedly after five years of litigation between the parties. It is further submitted that petitioner has not given any justifiable and acceptable explanation for not filing the said documents with the plaint, and thus, the application has rightly been dismissed by the trial court.

6. Respondent has placed reliance on the following judgments:-
Asia Pacific breweries v Superior Industries 2009-158 DLT 670, *Gold Rock World Trade Ltd v Veejay Lakshmi Engineering Works Ltd.* 2007-143 DLT 113, *Shri Ramanand v Delhi Development Authority* High Court of Delhi in CM(M) 374/2015 & CM No.7905/2015 on 11.08.2016, *Polyflor Limited v Sh. A.N. Goenka* High Court of Delhi in O.A. No.84/2016 (CS(OS) 504/2004) on 18.04.2016 and *Haldiram (India) Pvt Ltd v Haldiram Bhujawala* 2009-5 ILR(Del) 503.

7. The details of the additional documents which were filed by the petitioner with the replication and were sought to be placed on record by filing the application under Order 7 Rule 14 CPC are as under:-

- i. Pay Slip issued by Indian Christian Cemetery dated 18.01.2004.
- ii. Pay slip issued by Penzy Morgan dated 18.01.2004.



- iii. Membership issued by All Delhi Tent Traders Welfare Association dated 29.09.1993.
- iv. Property Tax Receipts of the suit property.
- v. Copy of Will dated 19.09.2000.
- vi. Copy of Will dated 24.08.2000.
- vii. Copy of certificate issued from the office of Electrical Inspector, Delhi Administration in favour of the plaintiff.
- viii. Copy of Electricity and Water bills of the suit property.
- ix. Copy of the Last Pay Certificate and pension of the plaintiff's wife.
- x. Copy of the voucher, photographs of Bailey Tent House and the slips.

8. It has been submitted on behalf of the petitioner that these documents could not be placed on record inadvertently and now are sought to be taken on record.

9. The Court has considered the rival submissions and has perused the material on record. As per the CPC (Amendment) 1999, if any document or a copy thereof could not be filed with the plaint under this Rule, it could not be allowed to be received in evidence on behalf of the plaintiff at the hearing of the suit. There was embargo on the power of the court and any such document could not be received in evidence at a later stage. This provision was found too harsh and so the provision has been modified by the CPC (Amendment) Act, 2002 and now such document may be received in evidence with the leave of the court, which the court shall grant in genuine cases.

10. Before dealing with the rival submissions, it is apposite to refer Order 7 Rule 14 CPC. This provision mandates that if plaintiff relies on a document in their suit, they must produce it in court and file it with the plaint. Order 7 Rule 14 CPC reads as under:-



“Rule 14: 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 document is 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 plaintiffs witnesses, or handed over to a witness merely to refresh his memory.”

11. A plain reading of Order 7 Rule 14 CPC makes it clear that plaintiff has to present the relevant documents with the plaint. Subsequently, such documents cannot be presented without the leave of the court. The provision thus creates a bar on production of additional documents if the same have not been mentioned in the list of documents annexed to the plaint and produced at the time of filing the same, unless the leave of the court is sought. This principle was reiterated by the Coordinate Bench of this Court in **Polyflor Limited Vs. Sh. A. Goenka & Ors. in OA No. 84/2016 CS (OS) 504/2016**.

12. The Coordinate Bench of the this Court in **Haldiram (India) Pvt. Ltd. (supra)** held that it is a discretionary power of the court to allow belated filing of a document. The relevant portion of the judgment is reproduced as under:

“21. In any event, both under the old Order 7 Rule 18 sub-rule (1) and new Order 7 Rule 14 sub-rule (3) CPC a new document can certainly be produced on behalf of plaintiff at the final hearing of



suit, but the same has to be done with leave of the Court. It is not that the plaintiff has a legal vested right to file a document at a belated stage i.e. at the final hearing of the suit. The said provision gives a discretionary power to the Court, which needless to say has to be exercised in a reasonable and legal manner. In fact, this power has to be exercised sparingly and for some overpowering reason and not as a matter of routine. If petitioners' interpretation of Sub Rule 3 is accepted, it would make it impossible for the trial court to conclude the hearing of any suit."

13. It is no more *res-integra* that the rules of procedure are handmaid of justice and should not come in the way of delivering substantial justice. In the case of **Sugandhi (dead) by Lrs. & Anr. Vs. P. Rajkumar, represented by his power agent Imam Oli (2020) 10 SCC 706**, the Apex Court discussed the factors which must be considered while granting permission to produce additional documents under Section 8 Rule 1-A CPC. It was observed that procedure is handmaid of justice. If the procedural violation does not cause prejudice to the adversary party, procedural and technical hurdles should not come in the way of the courts while doing substantial justice. Thus, the courts should take a lenient view while deciding an application under Order 8 Rule 1-A CPC.

14. In **Mrs. Nalini Lal Vs State of NCT of Delhi & Others, TEST.CAS.22/2009**, a Coordinate Bench of this Court while allowing the application under Order 7 Rule 14 of CPC, held that the said provision allows for the submission of additional documents if the Court grants leave and if such documents are necessary for resolving the real issues between the parties. It was again emphasized that procedural rules should not hinder substantive justice.



15. In the case of **Mohanraj Vs. Kewalchand Hastimal Jain & Ors. AIR 2007 Bom. 69**, the Bombay High Court discussed the object of Order 7 Rule 14 CPC and observed that the provision is enacted to assist the parties and the courts in the manner of production of documentary evidence while adjudicating the disputes, to arrive at an appropriate decision on the matter. In this regard, the provision is to be construed liberally and a pedantic approach should not be taken while enforcing the provision of law. A documentary evidence which is relevant and material for the just and appropriate decision should be allowed to be produced and merely because the party failed to enter the same in the list annexed to the plaint, it should not be ignored unless the plaintiff can show that there would be real prejudice caused if such permission is granted.

16. Coming back to the present petition, the question for consideration is whether petitioner is to be allowed to place on record the documents, as detailed in the application under Order 7 Rule 14 CPC, which admittedly, were not filed with the plaint. In order to understand the requirement of such documents, a short narration of the factual narrative is essential.

17. As per the averments in the plaint filed by the petitioner, the mother of the petitioner sold property bearing No. WZ-5A/31, Vishnu Garden, New Delhi, measuring 200 sq. yards to the plaintiff for a total consideration amount of Rs. 2 lakhs vide Agreement to Sell, GPA, Will, Receipt and Possession Letter dated 16.10.2003 in favour of the petitioner. It has been asserted in the plaint that the mother of the



petitioner cancelled all her previous Will(s) in respect of the above-mentioned property before the Sub Registrar-II vide cancellation of Will dated 16.10.2003 and thus after the death of his mother, petitioner became the owner of the aforesaid property.

18. The case of the plaintiff has been that respondent was allowed to reside in a portion of the property as a “licensee” and even after the death of their mother, at her request, respondent was allowed to reside in the portion of the property till the marriage of her daughter, but she did not vacate the property after the marriage of her daughter.

19. In her written statement, respondent took the plea that petitioner did not do any work and preferred to sit idle at home. His behaviour towards his parents was not good. He survived on his parents pension or on the salary of the respondent. Her father got him opened an electrical repair workshop in front of Vishnu Garden house but he never took any interest in the said business. Due to careless attitude of the petitioner, the said business suffered losses and ultimately, the father of the petitioner had to close down the said business and the shop was rented out to a tenant. It has been further asserted in the written statement that the expenditure of marriage of petitioner was borne by the respondent. Even after getting married, he did not do any regular work and was surviving on his wife’s income. Neither petitioner nor his wife took care of old parents and did not contribute even a single penny towards the household expenses and all expenses of the old parents were taken care by the respondent.



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Petitioner and his wife used to abuse and even use to physically assault the parents of petitioner. In view of such conduct, the mother of the petitioner debarred the petitioner from succeeding to her properties vide an affidavit dated 17.11.1994 and publication in the newspaper “The Statesman” on 15.12.1994. According to the respondent, she is the owner of the suit property by virtue of the Will of her mother dated 17.11.1994.

20. In replication, petitioner states that respondent is relying upon the cancelled Will dated 17.11.1994, which was got executed from the mother under misguidance and misrepresentation of the respondent. He has submitted in his replication that he is an electrician and is a registered license holder with Government of NCT of Delhi since 1982 and has been doing the work of repairing. Apart from the same, he is also engaged in the business of tent house. His wife is a nurse in Kalawati Hospital and drawing handsome salary. He was never sitting idle and was not dependent on the pension of his parents or the salary of the respondent. It has also been stated that petitioner took every care for the treatment of his mother and after her death, it was the petitioner who incurred all the expenses of her funeral and prayer meeting and that he is having the bills of expenditure incurred on the last ceremonies of his mother. It has also been submitted that petitioner has been paying the house tax regularly since the purchase of this property on 16.10.2023 and is also in receipt of payment slips issued by Municipal Corporation of Delhi. According to him, it is the



petitioner who has been paying the electricity and water bills regularly.

21. The documents referred to in the application under Order 7 Rule 14 CPC are for the purpose of showing that petitioner was not sitting idle and was indulging in work and was earning income, as also for showing that he has been making the payment of house tax of the property since after its purchase and was making payment of electricity and water bills and was also looking after his mother. The trial court failed to appreciate that additional documents sought to be placed were relevant to counter the averments of the respondent, as mentioned in the written statement. Undisputedly, the documents are relevant. Some of the documents are in fact public documents. The authenticity and genuineness of the documents can be considered after granting an opportunity to the petitioner to prove the same. The contention of the petitioner that Wills dated 19.09.2000 & 24.08.2000 were not in his possession and he received them from his sister in law at a later stage, and therefore, being filed belatedly, cannot be disbelieved at this stage. The learned trial court disbelieved the argument of the petitioner that documents could not be filed due to negligence of the previous counsel of the petitioner. Be that as it may, even if it was a mistake on the part of the petitioner, as per the decision of the Coordinate Bench in the case of **Nishant Hannan** (*supra*), the parties do make the mistakes in the conduct of their cases and therefore such mistakes should be allowed to be corrected unless there is a great prejudice to the other side. The trial is still at an initial



stage. The parties are yet to lead evidence, and therefore, no great prejudice shall be caused to the respondent in case the documents are allowed to be taken on record.

22. The procedural rules under the CPC are intended to ensure substantive justice and exclusion of the documents in the present case would amount to elevating procedural technicalities over substantive justice, thereby, defeating the very purpose of fair adjudication.

23. In view of the above, I find that the impugned order suffers from gross illegality and perversity in disallowing the petitioner/plaintiff from filing the additional documents by dismissing the application of the petitioner/plaintiff.

24. In view of the aforesaid discussion, petition is allowed and the impugned order dated 17.05.2023 is set aside. Petitioner/plaintiff will be entitled to file additional documents which were sought to be filed in terms of the subject application under Order 7 Rule 14 CPC and thereafter prove the same in accordance with law.

25. Parties are left to bear their own costs.

RAVINDER DUDEJA, J.

18 JUNE, 2025

RM/AK