



2026:DHC:4768



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

Date of Decision: 26th May, 2026

+ CM(M) 135/2026 & CM APPL. 3568/2026

ARUN KUMAR

.....Petitioner

Through: Mr. H. S. Sharma, Adv. with
Petitioner-in-person.

versus

SIR SOBHA SINGH AND SONS P LTD

.....Respondent

Through: Mr. Anand Singh and Ms. Prerna,
Adv.

CORAM:

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER (Oral)

Rajneesh Kumar Gupta, J.

1. This hearing has been conducted through hybrid mode.
2. The present petition has been filed by the petitioner/appellant under Article 227 of the Constitution of India, read with Section 151 of the Code of Civil Procedure, 1908 (“CPC”), assailing the order dated 17th December 2025, passed by the learned Principal District and Sessions Judge, New Delhi District, Patiala House Courts, in *RCT No. 04/2024*.
3. Heard. Record perused.
4. Learned counsel for the petitioner has argued that the application filed on behalf of the petitioner under Order XLI Rule 27 CPC, ought to have been considered at the stage of final hearing of the appeal. However, the learned Appellate Court has decided the said application prior to the final hearing of the appeal. Accordingly, the impugned order is liable to be set aside as it has



been passed in contravention of the law. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in *Union of India vs. Ibrahim Uddin & Anr.* 2012 (8) SCC 148.

5. *Per contra*, learned counsel for the respondent has argued that there is no dispute with regard to the settled position of law that an application under Order XLI Rule 27 CPC is required to be considered at the time of the final hearing of the appeal. However, it is submitted that the learned Appellate Court has decided the application on its own merits and so there is no infirmity in the impugned order.

6. The Hon'ble Supreme Court in *Union of India vs. Ibrahim Uddin & Anr.* 2012 (8) SCC 148, has held as under:-

“49. An application under Order 41 Rule 27 CPC is to be considered at the time of hearing of appeal on merits so as to find out whether the documents and/or the evidence sought to be adduced have any relevance/bearing on the issues involved. The admissibility of additional evidence does not depend upon the relevancy to the issue on hand, or on the fact, whether the applicant had an opportunity for adducing such evidence at an earlier stage or not, but it depends upon whether or not the appellate court requires the evidence sought to be adduced to enable it to pronounce judgment or for any other substantial cause. The true test, therefore is, whether the appellate court is able to pronounce judgment on the materials before it without taking into consideration the additional evidence sought to be adduced. Such occasion would arise only if on examining the evidence as it stands the court comes to the conclusion that some inherent lacuna or defect becomes apparent to the court. (Vide Arjan Singh v. Kartar Singh [1951 SCC 178 : AIR 1951 SC 193] and Natha Singh v. Financial Commr., Taxation [(1976) 3 SCC 28 : AIR 1976 SC 1053].)



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52. Thus, from the above, it is crystal clear that an application for taking additional evidence on record at an appellate stage, even if filed during the pendency of the appeal, is to be heard at the time of the final hearing of the appeal at a stage when after appreciating the evidence on record, the court reaches the conclusion that additional evidence was required to be taken on record in order to pronounce the judgment or for any other substantial cause. In case, the application for taking additional evidence on record has been considered and allowed prior to the hearing of the appeal, the order being a product of total and complete non-application of mind, as to whether such evidence is required to be taken on record to pronounce the judgment or not, remains inconsequential/inexecutable and is liable to be ignored.”

7. Keeping in view the law laid down in the aforesaid judgment, the impugned order dated 17th December 2025, is not sustainable in the eyes of law and the same is set aside. The learned Appellate Court is directed to hear the application under Order XLI Rule 27 CPC afresh at the time of final hearing of the appeal.

8. Learned counsel for the petitioner also submits that the petitioner shall not seek any adjournment before the learned Appellate Court, as the matter is already listed for hearing before the learned Appellate Court on 04th June, 2026.

9. Accordingly, the petition is disposed of in the aforesaid terms. Pending application(s), if any, also stand disposed of.

RAJNEESH KUMAR GUPTA, J

MAY 26, 2026/sds/abk