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

+ **CS(COMM) 43/2019**

**M/S VAJIRAM & RAVI IAS STUDY CENTRE LLP..... Plaintiff**  
Through **Mr.Jayant Mehta, Mr.Sumit Rajput,**  
**Mr.B. Badrinath and Ms.Drishti Harpalani, Advs.**

versus

**M/S VAJIRAO & REDDY INSTITUTE PVT. LTD..... Defendant**  
Through **Mr.Dhruv Mehta, Sr. Adv. with**  
**Mr.Yashpal Singh Deora, Mr.Shyam Agarwal,**  
**Ms.Sonal Mashankar and Mr.Anmol Mehta, Advs.**

**CORAM:**  
**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**  
% **19.08.2019**

**IA No. 9898/2019**

1. This application is filed under Order 7 Rule 14 CPC seeking permission to place on record additional documents.
2. It is stated in the application that the plaintiff had preferred the aforementioned suit in a great haste on account of the advertisements put by the defendant on a bill board situated outside the office of the plaintiff which caused great confusion amongst the students. It is further stated that the case of the plaintiff is that it is in operation under the name and style of 'VAJIRAM & RAO' since 1976 till 1999 and thereafter under the name and style of 'VAJIRAM & RAVI' and is the registered owner of trademarks VAJIRAM & RAO, VAJIRAM & RAVI, VAJIRAM and VAJIRAM &



RAVI logo. The grievance of the plaintiff is that the defendant is using the word 'VAJIRAO' for running its institute for conducting coaching and training students for civil services examination and/or any other services or study material, etc.

3. It is further pleaded in the application that a sealing drive took place in the premises of the plaintiff on account of which records pertaining to the operations of the plaintiff were not accessible. Hence, it is pleaded that the documents are now being filed after being obtained from the Chartered Accountant and the lawyer.

4. Learned senior counsel for the defendant has opposed the present application. He has pointed out that there is complete confusion as to whether the documents were lying in the godown which was sealed by the concerned municipal corporation or they have been recovered from the chartered accountant/lawyer. He further states that there is no reference in the plaint pertaining to the fact that the documents are lying in the sealed godown and no liberty was sought while filing the plaint to file additional documents after having the concerned premises de-sealed. Hence, the application is an afterthought to fill up the gap in the case of the plaintiff.

5. Order 11 Rule 1 Sub-Rule 5 CPC reads as follows:-

“XI Disclosure, Discovery and Inspection of documents in suits before the Commercial Division of a High Court or a Commercial Court.

1. xxx

(5) The plaintiff shall not be allowed to rely on documents, which were in the plaintiff's power, possession, control or custody and not disclosed along with plaint or within the extended period set out above, save and except by leave of Court and such leave shall be granted only upon the plaintiff



establishing reasonable cause for non-disclosure along with the  
plaint.  
xxx”

6. A perusal of the plaint would show that the plaintiff claims user of the mark since 1976. The aforesaid documents prima facie seem to try and establish the said user. Needless to add, the plaintiff would have to prove all these documents as per law.

7. Keeping the nature of the averments made, in my opinion, there is reasonable cause for non-disclosure about the documents along with the plaint. Keeping the objections raised by the defendant open for adjudication at the time the documents are tendered in evidence, the application is allowed subject to costs of Rs.15,000/-.

**CS(COMM) 43/2019**

List before the Joint Registrar on 09.10.2019 for completion of admission/denial of documents.

List in court on 07.11.2019.

**IA No. 1183/2019 (u/O 39 R 1 & 2 CPC)**

List for arguments on 07.11.2019.

On that date, issues would also be framed.

**JAYANT NATH, J**

**AUGUST 19, 2019**  
**rb**