

Nath Bros. Vs. Delhi State Industrial Development Corporation Ltd.

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Court : Delhi

Decided On : Sep-29-1999

Reported in : 2000IAD(Delhi)1009

Judge : J.B. Goel, J.

Acts : Code of Civil Procedure (CPC), 1973 - Order 13, Rule 2

Appeal No. : Suit No. 595 of 1980

Appellant : Nath Bros.

Respondent : Delhi State Industrial Development Corporation Ltd.

Advocate for Def. : Ms. Anusuya Salwan and ; Ms. Monica Sharma, Advs.

Advocate for Pet/Ap. : Mr. G.N. Aggarwal, Adv

Judgement :

ORDER

I.A. 4942/99 in S. No. 595/80

1. This application has been filed by the plaintiff under Order 13 Rule 2 CPC for production of additional documents. Reply has not been filed and today request is made for further time. On 17th May, 1999 four weeks time was given. There is no Explanationn why the reply has not been filed even after more than four months. Request for further time is disallowed.

2. Arguments heard. Learned counsel for the plaintiff has contended that evidence of the plaintiff is yet not concluded, the documents are beyond suspicion and it is not necessary that the relevancy of the documents should be shown at this stage, no prejudice will be caused to the other party; these should be accepted and provisions of Order 13 Rule 2 are not mandatory. He has relied on *Rajdhani Films Pvt. Ltd. v. Northern India Motion Pictures Association* 1980 82 PLR 179, *Kancherla Saradha Devi Vs . Saripella Sivaramaraju and others* : AIR 1995 AP291 , *Madan Gopal Kanodia v. Mamraj Maniram and Others* (1977) SCC 669, *S.M. James and Another Vs . Dr. Abdul Khair* : AIR1961 Pat242 , *Khanchand Saindas v. UOI* 1978 RLR 37.

3. The plaintiff has filed a suit for cancellation of the lease deed executed by defendants No. 3 and 4 in favor of defendant No. 1 in respect of two plots of land which it is alleged were allotted first to the plaintiff. This suit was filed on 8th August, 1980 and the documents sought to be produced are copies of orders of assessment, passed by the Wealth Tax Officer, three assessment orders are of 31st May, 1980 and three of 22-7- 80. The copies sought to be filed are not certified copies. This application was filed on 7th May, 1999. Issues in the case were framed on March 15, 1984 and on that date specifically further time was allowed to both the parties to file further documents. Statement was made on behalf of the plaintiff on 26th April, 1984 that the plaintiff has not to file any further documents. Now in this application no averment has been made as to why these documents could not be filed earlier. It is also not disclosed how these documents are relevant for deciding the controversy.

4. Order 13 Rule 1 CPC provides that the parties shall file all the documents in their possession and power on which they rely before the issues are settled. Then Order 13 Rule 2 provides that no documentary evidence in the possession or power of any party shall be allowed to be produced later on except on 'good cause' shown and 'for reasons to be recorded by the Court.'

5. In *Khanchand Saindas v. UOI* 1978 RLR 37 it was held that the documents could be allowed by the Court where the Court can be reasonably sure that the document is genuine and that it will advance the ends of justice. This obviously

means that the documents have relevancy to the controversy, In Madan Gopal Kanodia Vs . Mamraj Maniram and Others : AIR 1976 SC461 it was held that this provision clearly clothes the court with discretion to allow production of documents, if it is satisfied that good cause is shown to its satisfaction. In S.M. James and Another Vs . Dr. Abdul Khair : AIR1961 Pat242 it was held that Order 13 Rule 2 makes a satisfactory Explanationn for nonproduction at the first hearing a condition precedent for the reception of documents produced out of time. In Rajdhani Films Pvt. Ltd. v. Northern India Motion Pictures Association and Others 1980 PLR 179 it was held that there is no absolute bar provided under Order 13 Rule 2 CPC for not reception of the documents filed late, however the words 'good cause is shown to the satisfaction of the Court for the nonproduction thereof' are quite relevant. These cases do not say that the documents whatever their nature, relevant or irrelevant, and as and whenever produced should necessarily be accepted. Relevancy and Explanationn for nonproduction in time are the relevant conditions otherwise it will be used as convenient device by the party who does not want early trial of the case and to harass its opponent.

6. In this case the documents were available when suit was fled. These were not filed in spite of opportunity given after issues were framed and it was specifically stated on behalf of plaintiff that no other document is to be filed on 26.4.1984. And neither good cause nor relevancy has been shown. Even certified copies have not been filed. I do not find any merit in this application.

7. This application is accordingly dismissed.

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