

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

Date of Reserve: 18th January, 2010
Date of Order: February 02, 2010

CM(M) No. 945/2007
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02.02.2010

Shri Harkesh Singh & Anr. **... Petitioners**
Through: Mr. Ashok Aggarwal, Advocate

Versus

Shri Ved Raj **... Respondents**
Through:

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. By this application the petitioners (defendants in the suit) have assailed order dated 16th April, 2007 whereby application made by the petitioners under Order 7 Rule 14 CPC for taking additional affidavit on record was dismissed by the trial Court.

2. When the application was made, the case was at the stage of defendant's' evidence and plaintiff's evidence had already been closed. In the application, the defendants stated that due to inadvertence, they could not file few documents along with WS; one was the sale deed of property no. 678, Bholi Nagar and other was *Khasra Girdavari* of property showing that the property in question was not in possession of the defendants and it belonged to Jai Chand. The learned Civil Judge dismissed the application on the ground that the application was filed without giving any reasons for non-filing of documents at the appropriate stage and the witnesses of plaintiff had already been examined, cross examined and discharged. Allowing of these documents would cause prejudice to the plaintiff.

3. Order 7 Rule 14 CPC is in respect of production of documents by the plaintiff along with the plaint. Order 8 Rule 1A requires defendant to produce all documents along with the WS. Order 8 Rule 1A (3) provides that the documents which have not been produced along with the WS cannot be produced in the Court,

later on, without the leave of the Court. Order 13 deals with production, impounding and return of documents and provides that the parties to produce all documentary evidence in original before settlement of issues. Order 13 Rule 1(3) CPC makes exception only in respect of those documents which are to be handed over to witnesses for refreshing his memory or to which witness, may be confronted during cross examination. Thus, if any documents are to be produced by a party, the same are to be produced with pleadings. Subsequent production of documents can be done only if the Court is satisfied with the grounds explained for non production of documents.

4. In the present case, the petitioners had not filed the documents along with the WS neither filed a list of documents stating that the documents were relied upon by them but were not in their possession. The only ground stated by the petitioners is that due to inadvertence they did not file the documents. Inadvertence is no ground for allowing an application for production of documents at the stage of evidence. I find no force in the petition. The petition is hereby dismissed.

February 02, 2010
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SHIV NARAYAN DHINGRA, J.