
(2025) 10 DEL CK 1349

In the Delhi High Court

Case No : Civil Miscellaneous Petition No. 2046 Of 2025, Civil Miscellaneous Application Nos. 66468, 66467, 66466 Of 2025

Jai Maa Vaishno Steel Through Proprietor Ms. Kamlesh Devi APPELLANT
Vs

Gulshan Gugnani RESPONDENT

Date of Decision : 27-10-2025

Acts Referred:

Code of Civil Procedure, 1908 — Order 11 Rule 1, Order 16 Rule 1

Citation : (2025) 10 DEL CK 1349

Hon'ble Judges : Girish Kathpalia, J

Bench : Single Bench

Advocate : Anshuman

Final Decision : Dismissed

Judgement

Girish Kathpalia, J

1. Petitioner/plaintiff has assailed orders dated 08.07.2025 and 24.09.2025 of the learned trial court, whereby applications of the respondent/defendant under Order XI Rule 1 CPC and under Order XVI Rule 1 CPC were allowed, thereby taking on record the pen drive containing certain audio recordings, and granting opportunity to the respondent/defendant to prove the same in accordance with law; and the review application was dismissed.

2. Having heard learned counsel for petitioner/plaintiff, I do not find it a fit case to even issue notice of this petition.

3. It is argued on behalf of petitioner/plaintiff that the impugned order is not sustainable in the eyes of law because the audio recordings in question dated prior to commencement of trial and not subsequent thereto, because subsequent thereto, parties had stopped communicating with each other. Learned counsel for petitioner/plaintiff also contends that no reasonable explanation has been advanced on the part of the respondent/defendant for delay in seeking to place the subject pen drive on record.

4. It appears that the petitioner/plaintiff filed a suit for recovery of Rs.4,00,000/- against the respondent/defendant, pleading that the petitioner/plaintiff had supplied building material worth Rs.8,50,000/-, against which the respondent/defendant had paid only Rs.4,50,000/- in two instalments. On the other hand, the case set up by the respondent/defendant was that material supplied was worth only Rs.4,50,000/-, which amount in its entirety stands paid. The respondent/defendant also pleaded that the petitioner/plaintiff had forged invoice dated 09.03.2021 to claim an additional amount of Rs.4,00,000/-. Further, it was pleaded that the petitioner/plaintiff had also handed over a cheque of Rs.3,50,000/- allegedly signed by one Sanjay @ Puran Chand.

4.1 In the course of her cross-examination, the petitioner/plaintiff claimed that she had no knowledge about Sanjay @ Puran Chand. Thereafter, brother of the respondent/defendant allegedly told the respondent/defendant about the record of the telephonic conversation with the petitioner/plaintiff in which she acknowledged the presence of Sanjay @ Puran Chand while discussing about the outstanding amount. The said conversation, according to the respondent/defendant is dated 10.03.2025 at 11:54:20am, 11:54:21am and 11:54:21am. Therefore, the respondent/defendant filed the applications leading to the impugned order dated 08.07.2025.

4.2 In reply to the applications leading to the impugned order, the stand taken by the petitioner/plaintiff was that those applications had been filed to overcome the cross-examination of plaintiff and no valid reason was given for not producing the pen drive at appropriate stage.

4.3 The learned trial court, after hearing both sides took a view that the audio files being dated 10.03.2025 were a later incident, not in existence at the time of filing the Written Statement, and that the same make a clear reference about Sanjay @ Puran Chand and the amount of Rs.3,50,000/-, therefore, the applications were allowed, granting opportunity to the respondent/defendant to lead evidence of his brother, who had tape recorded the alleged conversation.

4.4 The petitioner/plaintiff preferred a review application, taking a plea that the alleged audio recordings could not be of 10.03.2025, because parties had stopped communicating with each other since the year 2021. The review application was dismissed by the learned trial court vide the impugned order dated 24.09.2025 holding that the ground raised by the petitioner/plaintiff does not tantamount to error apparent on the face of record.

5. As mentioned above, the subject pen drive containing the audio files would, according to the respondent/defendant establish falsity in the testimony of the petitioner/plaintiff. According to the respondent/defendant, the audio files are dated 10.03.2025, which is an event that allegedly took place subsequent to the commencement of trial.

5.1 The relevance of the alleged audio recordings, as mentioned above is to test the truthfulness of testimony of the petitioner/plaintiff.

5.2 The questions as to whether or not the said audio recording is of 10.03.2025 or prior thereto, and as to whether parties had stopped communicating with each other in the year 2021, and as to whether the subject pen drive contains genuine audio recordings are to be tested by way of trial, for which the learned trial court granted opportunity to the respondent/defendant to prove the pen drive in accordance with law. It is obvious that the petitioner/plaintiff shall always have liberty to cross-examine the witness who would be examined to prove the alleged audio recordings.

6. I am unable to find any infirmity in the impugned orders, so the same are upheld, and the present petition and the accompanying applications are dismissed.