

(2004) 02 DEL CK 0053

In the Delhi High Court

Case No : CRP 547 of 2003 and CM 1185 of 2003

Rasmos Impex Pvt. Ltd.

APPELLANT

Vs

Rajan and Co. and Others

RESPONDENT

Date of Decision : 26-02-2004

Acts Referred:

Citation : (2004) 110 DLT 605 : (2004) 3 RCR(Civil) 72

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : D.K. Mehta, for the Appellant; Pushkar Sood and Jitender Singh for R-1, for the Respondent

Judgement

Vikramajit Sen, J.—This Revision is directed against the Order dated 28.8.2003 by which the application of Petitioner/Defendant for placing on record the letter dated 15.10.1996 along with its postal receipt and courier note has been rejected by the Civil Judge. It is apparent that this application has been filed by invoking the provisions of Order VIII Rule 1A (3), which has been inserted into the CPC by amendments with effect from 1.7.2002. There is a clear distinction between the filing of a document and the Trial Court taking the said document into consideration. It cannot be gainsaid that a document may be filed and subsequently not proved in accordance with law. Such a document may even be proved and Therefore exhibited, but found by the Court to be of suspicious nature and Therefore not be given credence to. Let us take the case of the present letter dated 15.10.1996 being filed along with the Written Statement. No leave of the Court to file the document would have been required at that stage. The Defendant may have succeeded in proving it by a sworn statement of the Defendant. That would not necessarily preclude the Trial Court from refusing to give any weightage to it for any reason which the Court finds to be appropriate. Even so far as exhibited documents are concerned, the Court is free to discount or disbelieve its contents. On a reading of the impugned Order it appears to me that the Trial Court has doubted the veracity of the documents, and Therefore

declined to exercise the powers vested in it under Order VIII Rule 1A(3) of the CPC. This, to my mind, has led to jurisdiction being erroneously exercised by the Trial Court.

2. Counsel for the plaintiff/Respondent has justifiably emphasised that this document was sought to be produced only when the case was fixed for Final Arguments, and was of dilatory nature on its very face. Again that may be relevant for determining the genuineness of the document but would not be an absolute ground for rejecting its being taken on record. Where the Defendant adopts delaying and dilatory tactics, the interest of the parties can be balanced by imposition of realistic costs.

3. In these circumstances, the Petition is allowed. It appears that the suit is fixed before the Trial Court for the purpose of Final Arguments on 3.3.2004. The Defendant's application under Order VIII is allowed in the circumstances of the present case only. This decision shall not be construed to mean that a party is at liberty to file documents at any stage of the proceedings. A determination on whether to permit or decline its filing must be taken by the Trial Court in the facts of every case. I am allowing the application only with the intent of bringing the suit to an early conclusion. The said documents have already been filed in the Trial Court and shall be formally taken on record. The Trial Court shall grant one opportunity only to the Defendant to prove the document, as has been prayed for by its counsel, preferably within the month of March, 2004 itself. The case shall thereafter immediately proceed to the stage of Final Arguments.

4. The Petition is disposed of in the above terms subject to payment of Rs. 5,000/- as costs. Costs be paid within two weeks from today.

5. A copy of this Order be given dusty to learned counsel for the parties.