

(2011) 10 DEL CK 0193
In the Delhi High Court
Case No : CM (M) No. 1214 of 2011

Sh. Gurminder Singh

APPELLANT

Vs

M/s. Deenar Builders Pvt. Ltd. and Others

RESPONDENT

Date of Decision : 19-10-2011

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 16 Rule 13, Order 16 Rule 3

Citation : (2011) 10 DEL CK 0193

Hon'ble Judges : Indermeet Kaur, J

Bench : Single Bench

Advocate : Shahid Ali, for the Appellant;

Final Decision : Allowed

Judgement

Indermeet Kaur, J.

CM No. 19271/2011 (exemption) in CM (M) No. 1214/2011

Exemption allowed subject to just exceptions.

CM (M) No. 1214/2011 and CM No. 19270/2011

1. The petitioner is aggrieved by the order dated 07.05.2011 vide which application filed by the defendant under Order 16 Rules 3 & Rule 13 of the CPC (hereinafter referred to as "the Code") had been dismissed. Record shows that the present suit is a suit for possession, permanent injunction as also for recovery of user charges. Suit had been filed in the year 1996. It was at the stage when the evidence of the defendant was being led itself, the present application under Order 16 Rules 3 & Rule 13 of the Code was filed on 16.09.2009. The averments made in the said application have been perused. It is stated that the plaintiff has not given true answers put by the defendant to him and it was in these circumstances that the defendant was constrained to move an application under the Right to Information Act and certain informations have been elicited by him through the Right to Information Act; this information even

as per the saying of the defendant was obtained by him on 01.12.2008. Present application has been filed nine months later i.e. 16.09.2009. It is also relevant to state that nowhere in this application has it been averred that this information was obtained by him only on 01.12.2008; in fact, the documents annexed with the application show that these documents pertain to the year 2002; the submission of the petitioner that this information was given to him under the Right to Information Act on 01.12.2008 is thus falsified. That apart, as noted supra there is no justifiable explanation as to why the petitioner had taken nine months in proffering the present application. The application even otherwise has no relation to the lies between the parties. The petitioner by way of this application seeks to summon a witness from the DDA as also the Director/ authorized employee of the M/s. Kohday India to substantiate his submission that the DDA had sent notice to the plaintiff for certain violations committed by him; further the plaintiff had permitted another tenant to commit violation in the suit property; contention by an large is bordering on the submission that if the plaintiff had permitted another tenant to commit a wrong, the petitioner should also be permitted to become a wrong doer.

2. Impugned order had noted the facts in the correct perspective. It had also noted that the documents proposed to be submitted by the plaintiff are false and fabricated and the document purported to have been issued by M/s. Kohday India is a manipulated document as there was a long pending litigation between the plaintiff and M/s. Kohday India. Trial Court had correctly noted that these were delaying tactics on the part of the defendant to prolong the litigation.

3. Impugned order suffers form no infirmity; it is dismissed.