



IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

MISC. PETITION No. 2206 of 2023

DR. RAVINDRA JAIN

Versus

DEEPAK PRADHAN

.....
Appearance:

*Shri Vinay Kumar Zelawat, Sr. Advocate with Shri Abhinav
Maitra, Advocate for the petitioner.*

Shri Piyush Jain, Advocate for the respondent.
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Heard on : 15.07.2025

Pronounced on : 18.07.2025

ORDER

The petitioner has filed the present petition under Article 227 of the Constitution of India challenging the order dated 15.03.2023 passed by the Additional District Judge, Dharampuri, District Dhar in Regular Civil Suit No.21-A/2019 whereby, the application filed by the respondent/defendant under Order VIII Rule 1A(3) r/w Section 151 of CPC has been allowed by taking additional documents on record.

2. Facts of the case in brief are that the petitioner had filed a civil suit for taking back possession of the suit property by way of cancelling of license given to his uncle i.e the respondent and also for compensation against the respondent. The petitioner is the title holder of the disputed



house in question and the said house is given to the petitioner by his paternal grandfather through a registered gift deed. On the basis of the registered gift deed, the name of the petitioner was recorded as owner in the Municipal Corporation, Dhamnod in the year 1996. The respondent is real uncle of the petitioner and as the respondent did not have any place to stay, the petitioner gave him oral permission to live in the disputed property. Since the petitioner was in a government job, he was not a local resident of Dhamnod and used to visit the house from time to time. The respondent took advantage of the situation and got name of his mother Smt. Sarlabai in the property records by submitting a false application before the authorities. In the year 1996, name of the petitioner was recorded as owner of the said property and it continued till 2001-2002 and without any justification, name of Smt. Sarlabai W/o Trilokchand has been recorded as owner of the disputed property without notice or opportunity of hearing to the petitioner. Against the said illegal action, the petitioner filed a writ petition before the High Court and the same was disposed of with a direction to the authorities to consider the representation of the petitioner and thereafter, name of the petitioner was again recorded as owner of the said property. Thereafter, the petitioner sent a legal notice dated 15.06.2019 to the respondent to vacate the property within one month. However, the respondent did not vacate the house within the prescribed period and therefore, the petitioner filed a suit. The respondent filed its written statements on 11.02.2020 and



denied the averments of the petitioner. Learned Trial Court framed issues and recorded the evidence of the petitioner. Thereafter, the respondent filed an application under Order VIII Rule 1A(3) r/w 151 of CPC before the Trial Court alongwith nearly 62 additional documents explaining the reason for delay that after he got retired from the service only, he found the said documents therefore, he could not produce the same alongwith his written statements. The petitioner filed a counter to the application stating that taking additional documents on record is not correct under the provisions of law so also the same was filed after a substantial delay and also submitted that the said documents were filed after closing his evidence. Being aggrieved by the aforesaid, the petitioner has preferred this petition.

3. Learned Senior Counsel for the petitioner submits that the application was filed without assigning any proper reason for filing documents belatedly and learned Trial Court has also passed the order erringly without assigning any cogent reason for the delay in filing the documents. He has placed reliance on the order passed by the M. P. High Court, Principal Seat at Jabalpur in **M/s Ashoka Finacp (M.P.) Pvt. Ltd. Vs. Shikha Grih Nirman Sahkari Sanstha (W.P. No.3466/2017 decided on 09.08.2017)** and submitted that the leave of the Court is not an empty formality unless cogent explanation is tendered not only as to its necessity for effective decision but also the reasons which prevented the party from not filing those documents. It is also expostulated that the



application for taking additional documents has not been filed under correct provision rather, it has been filed under Order VIII Rule 3 r/w Section 151 of CPC. In view of the aforesaid, it is prayed that the impugned order passed by the Trial Court be set aside pertaining to taking additional documents on record.

4. On the other hand, learned counsel for the respondent has vehemently contended the arguments and submits that since the respondent has obtained those documents after his retirement while searching the documents, the said documents are necessary for just decision of this case and the plaintiff has opportunity to file the documents in rebuttal and also to cross-examine the witness, who is going to exhibit those documents. In support of his contention, he has relied upon the order of the Apex Court in **Sugandhi (dead) by Lrs. & Anr. Vs. P. Rajkumar** [2020 (1) SCC 706].

5. I have heard learned counsel for the parties and perused the record.

6. Upon perusal of the record, it is apparent that those documents are mark-sheets, fee receipts, aadhar card etc. So far as the order passed by this Court in **M/s Ashoka Fincap (supra)** is concerned, in this case, the defendant has failed to justify as to why those documents could not be produced before the Court. That apart, the reasons for the delay was also not justifying. The contentions of the petitioner are found contradictory and self contained and in as much as, those documents are available and



filed alongwith the application under Order XI Rule 14 of CPC in that case whereas, in this case, the relevant documents were not filed alongwith the application under Order XI Rule 14 of CPC earlier. As such, due to difference of the facts, the law laid down in the case of **M/s Ashoka Fincap (supra)** is not applicable in this case.

7. So far as the demurrer regarding wrong provision is concerned, it is well settled that only due to mentioning of wrong provision, application cannot be dismissed. However, from the averments and prayer made in the application, it appears that the defendant filed the application for relief which should be given under Order VIII Rule 1A(3) of CPC and the Trial Court has also adjudged the application taking into consideration the provisions of Order VIII Rule 1A(3) of CPC. Mere mentioning of wrong provision of law is of little consequence. In this regard, the view taken by the High Court of Rajasthan, Bench at Jaipur in the case of **Shrawan Kumar Vs. Tej Karan and Ors. [Civil Writ Petition No.14881/2016 decided on 21.12.2016]** is pertinent to quote, which reads as under:-

"Learned Counsel also submitted that the defendant-respondent has filed the application under Order 8, Rule 8A of C.P.C. on 17.12.2015, which provision is not existing in C.P.C., since it has already been repealed..... But from the averments and prayer made in the application, it appears that the defendant Tej Karan filed the application for the relief which may be given under Order 8, Rule 1A(3) of C.P.C. and the learned Trial Court has decided the application taking into consideration the provisions of Order 8, Rule 1A(3) of C.P.C. Mere mentioning of a wrong provision of law is of little consequence, because the learned Trial Court has exercised the powers available to it under Order 8, Rule 1A(3) of C.P.C. therefore, the impugned order dated 22.9.2016 does not



become invalid, only on this ground."

8 . Before going into further consideration, it will be apposite to refer respective Rule 1A of Order VIII of CPC, which provides the procedure for production of documents by the defendant, which reads as under :-

"1A. Duty of defendant to produce documents upon which relief is claimed or relied upon by him.— (1) Where the defendant bases his defence upon a document or relies upon any document in his possession or power, in support of his defence or claim for set off or counterclaim, he shall enter such document in a list, and shall produce it in Court when the written statement is presented by him and shall, at the same time, deliver the document and a copy thereof, to be filed with the written statement.

(2) Where any such document is not in the possession or power of the defendant, he shall, wherever possible, state in whose possession or power it is.

(3) A document which ought to be produced in Court by the defendant under this rule, but, is not so produced shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to document—

(a) produced for the cross-examination of the plaintiff's witnesses, or

(b) handed over to a witness merely to refresh his memory."

Subrule (1) mandates the defendant to produce the documents in his possession before the court and file the same along with his written statement. He must list out the documents which are in his possession or power as well as those which are not. In case the defendant does not file any document or copy thereof along with his written statement, such a document shall not be allowed to be received in evidence on behalf of the defendant at the hearing of the suit. However, this will not apply to a document produced for cross examination of the plaintiff's witnesses or handed over to a witness merely to refresh his memory. Subrule (3) states that a document which is not produced at the time of filing of the written statement, shall not be received in evidence except with the leave of the court.

Rule (1) of Order 13 of C.P.C. again makes it mandatory for the parties to produce their original documents before settlement of issues."



9. In view of the aforesaid provision, the documents can be filed with the leave of the Court. On this aspect, the law laid down by the Apex Court in **Sugandhi (supra)** is pertinent to quote, which runs as under :-

"9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute. Therefore, the court should take a lenient view when an application is made for production of the documents under subrule (3)."

10. On this aspect, the view of the Apex Court rendered in the case of **Levaku Pedda Reddamma & Ors. Vs. Gottumukkala Venkata Subbamma & Anr.** [2022 LiveLaw (SC) 533] is also condign to be quoted here, which reads as under:-

"We find that the trial Court as well as the High Court have gravely erred in law in not permitting the defendants to produce documents, the relevance of which can be examined by the trial Court on the basis of the evidence to be led, but to deprive a party to the suit not to file documents even if there is some delay will lead to denial of justice.

It is well settled that rules of procedure are hand-maid of justice and, therefore, even if there is some delay, the trial Court should have imposed some costs rather than to decline the production of the documents itself.

Consequently, the appeal is allowed. The orders passed by the trial Court and the High Court are set aside. The appellants – defendant Nos.2 to 5 are permitted to file the documents and to prove the same in accordance with law."

11. In conspectus of aforesaid legal proposition and in view of the



arguments advanced by learned counsel for the parties and after going through the record, it is apparent that the defendant has stated in his application i.e. I.A. No.01/2023 that since the respondent has retired from M.P. Vidyut Nigam and thereafter, after examining the documents, he found that those documents are public documents. In this way, the respondent has appropriately assigned the reasons of late filing of the documents. Moreover, the petitioner/plaintiff will have liberty to file documents in rebuttal and also put cross-examination to the witness, who would exhibit those documents with regard to the sanctity of those documents. However, at this stage, declining to accept the documents on record would be an inappropriate step.

12. The language predicated in aforesaid sub-Rule (3) manifests the discretionary power of the Trial Court. Certainly, adjudicating leave of the Court is not a mere formality. The Court has to see as to whether the party tendering the documents has assigned cogent reasons or not. In this regard, it has to be kept in mind that the provisions of CPC under Order VIII Rule 1A(3) are not mandatory. They are already held to be discretionary. However, no straight jacket formula can be laid down except that the observance of the provisions in the interest of justice and if the documents are necessary to adjudicate the dispute of the suit must be taken on record. Nevertheless, the chance of rebuttal should be afforded to the opposite party.

13. In view of the aforesaid analysis and settled position of law,



the Trial Court has not committed any error in granting leave to file additional documents. Even otherwise, the scope of interference in exercise of the supervisory jurisdiction under Article 227 of the Constitution is limited. The Apex Court in the case of **Jai Singh and others Vs. Municipal Corporation of Delhi and Another** [2010 (9) SCC 385] while considering the scope of interference under Article 227 of the Constitution, has held that the jurisdiction under Article 227 cannot be exercised to correct all errors of judgement of a Court, acting within the limits of its jurisdiction. Correctional jurisdiction can be exercised in cases where orders have been passed in grave dereliction of duty or in flagrant abuse of fundamental principles of law or justice.

14. Having regard to the aforesaid, no case for interference in the impugned order is made out. The present petition sans merit and is **dismissed**.

(PREM NARAYAN SINGH)
JUDGE