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

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Date of decision: 04.02.2025

+ **CM(M) 223/2025**

GOODEARTH BRICKS PVT LTD

..... Petitioner

versus

MOVIE TIME CINEMA PVT LTD

..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Vinod Kumar, Advocate

For the Respondents: None.

CORAM:-

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT (ORAL)

RAVINDER DUDEJA, J.

CM APPL. 6854/2025 (exemption)

Allowed, subject to all just exceptions.

Application stands disposed of.

CM(M) 223/2025

1. This is a petition under Article 227 of the Constitution of India against the order dated 05.11.2024, whereby, the application under Order 7 Rule 14(3) CPC, passed in CS (Comm.) No. 647/2023 was dismissed by the learned District Judge (Commercial Court)-05, Saket Courts, Delhi.

2. Petitioner is a private limited company, engaged in civil construction, interior works and designing. Respondent company required interior construction work for their project at MT Sky Mall,



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Hyderabad. After discussion, a Work Order was issued in March 2021 and the petitioner began mobilizing the workers and materials. However, due to the respondent's failure to adhere to the terms of the agreement, petitioner had to halt the work in May 2021.

3. Petitioner filed a recovery suit in November 2023. Respondent denied the contract's conclusion and claimed that petitioner had not mobilized or executed the work.

4. Petitioner filed an application under Order 7 Rule 14 (3) CPC, stating that some crucial documents (pictures of the site and invoice of the materials, GST Record, evidencing the execution of the work at the site, later retrieved through Google Pictures) were not filed, and therefore, sought permission to place the same on record.

5. The application was dismissed by the learned trial court observing that no sufficient cause has been assigned for not placing the said documents earlier on record, and therefore, the same cannot be taken on record.

6. Learned counsel for the petitioner has submitted that the documents inadvertently left out include copies of certain documents for the material purchased for the site along with photographs of the site taken during the execution of the work which were reported by the Site Supervisor to the petitioner's head office via Whats App. It is submitted that these documents are crucial documents directly related to the dispute and are necessary for just determination of the case.

7. It has been further submitted that exclusion of the documents would cause great prejudice to the petitioner, thereby, defeating the ends of justice.



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8. It is also submitted that procedural rules under the Code of Civil Procedure [“CPC”] are intended to ensure substantive justice and the exclusion of the documents in the present case would amount to elevating procedural technicalities over substantive justice, thereby defeating the very purpose of fair adjudication.

9. At the outset, it is to be noted that the application for leave to produce additional documents was preferred by the petitioner herein (plaintiff) under Order 7 Rule 14(3) CPC. However, considering Order 11 Rule 1 as applicable to commercial suits by which, the Code of Civil Procedure has been amended with respect to the suits before the Commercial Court and in view of Section 16 of the Commercial Courts Act, Order 7 Rule 14(3) CPC shall have no application at all. After Order 11 Rule 1 has been amended with respect to the suits before the Commercial Courts and a specific provision/procedure has been prescribed with respect to the suit before the commercial Court, the provisions of Code of Civil Procedure, as has been amended by the Commercial Courts Act, 2015 have to be followed. Therefore, Order 11 Rule 1 as amended by the amendment in the Commercial Courts Act with respect to the suits before the Commercial Courts, the provisions of Order 7 Rule 14(3) shall not be applicable at all. Therefore, as such, petitioner applied the wrong provision seeking leave of the Court to place on record additional documents. However, considering the fact that substantial relief claimed remains the same, the application was treated as having been moved under Order 11 Rule 1(4) and (5) CPC by the trial court.



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10. Order 11 Rule 1 CPC mandates the plaintiff to file a list of documents, photocopies of all documents in its power, possession, control or custody pertaining to the suit along with the plaint and the procedure is provided under Order 11 Rule 1, which is required to be followed by the plaintiff and the defendant, when the suit is a Commercial Suit.

11. In case of urgent filing, Order 11 Rule 1(4) permits the filing of additional documents by the plaintiff within 30 days of filing of the suit with the leave of the Court.

12. If the documents which are in plaintiff's power, possession, control or custody have not been brought on record under Order 11 Rule 1, sub Rule 1 or within the extended period of 30 days as provided in sub Rule 3, leave to file such documents shall be granted only upon the plaintiff, establishing reasonable cause for non-disclosure of the documents along with the plaint.

13. Thus, if the plaintiff wants to place on record additional documents beyond 30 days period as set out in sub rule 4 of Order 11 CPC, he must show sufficient cause for not filing the same earlier.

14. In order to find out as to whether the petitioner has been able to explain any sufficient cause for not producing the documents earlier, the averments made in the application under Order 11 Rule 1 (4) & (5) CPC (Order 7 Rule 14 CPC) need to be considered. The relevant paras of the application are reproduced as under:-

“3. That the plaintiff submits that the work was executed at MT Sky Mall Fatehnagar, Sanath Nagar, Hyderabad -500018 and the plaintiff had mobilized its material and workmen to the site. The Site in-Charge of the plaintiff has made purchase on behalf of the plaintiff for the execution of the work. The Site in-Charge has also



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snapped few pictures of the site during the execution of the work and reported the same to the plaintiff at its head office through WhatsApp.

4. That the plaintiff submits that the documents (pictures of the site and invoice of the materials, GST record) are now being filed on record.

5. That the invoice of the materials purchased for the execution of the work at the site, on which the GST has been booked are reflected in the GST portal and printout from the GST website are being filed on record.

6. That the defendant in its reply, has falsely denied the mobilization and execution of the work at site, even denied the finalization of the Work Order for the work. The defendant's false statement /avermnt can only be annulled by filing the documents evidencing the execution of the work at the site.

7. That the documents are now being filed on record are related to the purchase of materials for the site and labour working at the site during the execution period of the contract.

8. That the documents (pictures of the site and invoices) are communicated through WhatsApp from the site to the head office of the plaintiff.

9. That the documents are important for the proper adjudication of the plaint, therefore may be taken on record in the interest of justice.

10. That the present application is being made bonafide and in the interest of justice.”

15. On a perusal of the relevant paras of the application filed by the petitioner/plaintiff, the Court is of the view that the discretionary power with the trial court to take additional documentary evidence has been rightly refused. It may be mentioned that in the said application filed by the petitioner, no reason has been explained for filing the documents at a belated stage. It is not disputed that the documents sought to be filed were in power and possession of the petitioner. No cause much less sufficient cause has been assigned for not producing the said documents earlier on record.

16. The Court finds no merit in the challenge raised to the impugned order.



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17. Petition is dismissed.

RAVINDER DUDEJA, J.

FEBRUARY 4, 2025

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