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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: 23rd May, 2025***
+ **CM(M) 1972/2024 & CM APPL. 26488/2025 & CM APPL.**
26561/2025

SHRI SUNIL PASRICHA & ANR.

.....Petitioner

Through: Mr. N.S. Dalal, Ms. Nidhi Dalal, Mr.
Alok Kumar, Ms. Rachana Dalal and
Mr. Karan Mann, Advocates

versus

SHRI SHIVAM GUPTA

.....Respondent

Through: Mr. M. Zohaib with Mr. Karan
Kataria, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioners are defending a suit which is commercial in nature.
2. According to plaintiff (respondent herein), the defendants approached him and as per discussion, which took place between them, plaintiff sent a quotation to them and pursuant to further discussions, defendants placed purchase order and in due course of business, the goods, as per the specification and requirement of defendants, were supplied to them.
3. The suit is with respect to the outstanding dues, towards such supply.
4. The suit has been resisted and according to defendants, the goods which were supplied by the plaintiff were defective and of inferior quality, which resulted into huge losses to them and, therefore, such recovery has been denied and disputed.
5. Issues have already been framed and when the case was at the stage of recording of evidence of plaintiff and when the plaintiff had submitted its



affidavit in this regard, he moved an application under Order XI Rule 1 (5) CPC seeking permission to place on record certain additional documents.

6. Learned Trial Court *vide* order dated 18.01.2024 has allowed the abvoesaid application.

7. Such order is under challenge.

8. Order XI Rule 1(5) reads as under:-

“1. Disclosure and discovery of documents.— (5) The plaintiff shall not be allowed to rely on documents, which were in the plaintiff’s power, possession, control or custody and not disclosed along with plaint or within the extended period set out above, save and except by leave of Court and such leave shall be granted only upon the plaintiff establishing reasonable cause for non-disclosure along with the plaint.”

9. Admittedly, if any document which was never under the power, control and custody of any such party, the rule does not stand attracted. It comes into play and become applicable where despite such documents in possession of plaintiff, there were not disclosed along with the plaint. In such a situation, the Court can grant permission if the party establishes *reasonable cause* for such non-disclosure.

10. The word “*reasonable cause*” cannot be said to be put in an air-tight compartment. This is flexible term and has to be considered, keeping in view the factual matrix of any given case.

11. Mr. Dalal, learned counsel for petitioner herein submits that in the entire application, no cause, much less a reasonable one, has been elaborated and, therefore, the learned Trial Court Court should not have allowed any such application.

12. He also submits that, even otherwise, these documents were, all along, under the power control and custody of the plaintiff and in view of the above, coupled with his own statement of truth, the learned Trial Court should not



have allowed the application.

13. This Court has gone through the application moved by the plaintiff under Order XI Rule 1(5) and admittedly, the reason as such, has not been assigned in the application.

14. Learned counsel for the respondent /plaintiff does admit that the reason as such was not specified in the abovesaid application but contends that when the abovesaid application was being argued before the learned Trial Court, the specific reason in this regard was described and it was divulged to the learned Trial Court that such additional documents were with the Chartered Accountant of the plaintiff company and, therefore, could not be mentioned in the plaint and, therefore, permission was sought to place on record the abovesaid documents.

15. The broad nature of controversy has already been noticed by this Court, which is, even otherwise, quite evident from the stand taken by the parties. It is not a case where the delivery is disputed. It is rather a case where according to the defendants, goods were not of the specified quality. According to them, since the goods were inferior in nature, they had, rather, suffered huge losses. The onus would be upon the defendants to substantiate the abovesaid assertion and the aspect of delivery of goods, in such a situation, virtually, pales into insignificance.

16. Of course, the plaintiff should have been extra careful and should have placed on record all these documents at the time of institution of the suit. These were with his Chartered Accountant only and he could have easily, demanded those from his Chartered Accountant, before instituting the suit.

17. However, at the same time, it cannot be forgotten that the facts which he seeks to place on record are in consonance with the pleadings and no new



case is being set up. As noticed above, the purchase order and delivery of the goods is not even disputed. In such a situation, the placement of these record documents, even if at a little belated stage, is not going to cause any prejudice to the case of the defendants.

18. Mr. Dalal, learned counsel for petitioner has placed his reliance upon *Bela Creation Pvt. Ltd. vs Anuj Textiles: 2022 SCC OnLine Del 1366*. However, in that case the situation was other way round as the learned Commercial Court itself had not allowed placing on record additional documents and when the petition under Article 227 of Constitution of India was invoked, even this Court held that there was no reason to interfere with the abovesaid order and it was also observed that while exercising its jurisdiction under Article 227 of Constitution of India, Supervisory Court does not sit in appeal or revision.

19. Reference be also made *Black Diamond Trackparts (P) Ltd. v. Black Diamond Motors (P) Ltd., (2022) 1 HCC (Del) 737* wherein this Court has observed as under:-

“5. Before proceeding further, it may be noted that the power under Article 227 of the Constitution of India being one of judicial superintendence cannot be exercised to upset conclusions, howsoever erroneous they may be, unless there was something grossly wrong or unjust in the impugned order shocking the court’s conscience or the conclusions were so perverse that it becomes absolutely necessary in the interest of justice for the court to interfere. The powers under Article 227 will be used sparingly. The Supreme Court has observed in *Pipe Fitting Co. v. Fakhruddin M.A. Baker (1977) 4 SCC 587* and in *Mohd. Yunus v. Mohd. Mustaqim (1983) 4 SCC 566* that the supervisory jurisdiction conferred to the High Courts under Article 227 of the Constitution of India is limited to overseeing that an inferior court or tribunal functions within the limits of its authority and is not meant to correct an error, even if apparent on the face of the record. A mere wrong decision without anything more is not enough to attract this jurisdiction. Even in the judgment relied upon by the learned senior counsel for the respondent/plaintiff mentioned above, the Division Bench



of this court has again cautioned that Article 227 of the Constitution of India be used sparingly in such suits which under the CPC are revisable and which remedy has been taken away by the Commercial Courts Act, 2015, in order to preserve the legislative intent and give effect to the purpose behind the Commercial Courts Act, of expeditious disposal of commercial suits.”

(emphasis supplied)

20. Such sentiments were echoed again in *Telecommunications Consultants India Ltd. v. Anil Bhasin*, 2021 SCC OnLine Del 5359 wherein the order of learned Trial Court, granting permission to plaintiff to place on record additional documents, was not interfered with by this Court.

21. Fact remains that my foregoing discussion would indicate that the impugned order, which is mere discretionary in nature, does not reflect any perversity, necessitating any interference.

22. Finding no merit or substance in the present petition, same is accordingly dismissed.

23. All the pending applications are also disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

MAY 23, 2025/sw/js