*IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS)No.1671/2009

Date of Decision : 14th February, 2011

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MST. KIRAN CHHABRA AND ANR. ..... Plaintiffs
Through : Mr. Shams Khwaja, Adv.

versus

MR. PAWAN KUMAR JAIN AND ORS. ..... Defendants
Through : Mr. Shanker Divate, Mr. Raja Chatterjee and Ms. Puja Anand, Advs.

CORAM :-
HON'BLE MR. JUSTICE J.R. MIDHA

1. Whether Reporters of Local papers may be allowed to see the Judgment? **YES**

2. To be referred to the Reporter or not? **YES**

3. Whether the judgment should be reported in the Digest? **YES**

J.R. MIDHA, J. (Oral)

1. Learned counsel for the plaintiff has filed the brief note of submissions. However, the learned counsel has utterly failed to address the number of judgments relating to the issues involved. Some of the relevant judgments in this regard to the notice of this Court are **Harshad Chiman Lal Modi vs. DLF Universal & Anr., AIR 2005 SC 4446, Shri Sant Singh vs. Shri K.G. Ringshia, CS(OS) No.2011/1984** decided on **24th May, 2010, Splendor Landbase Limited vs. Mirage Infra Limited & Anr., CS(OS) No.582/2009** decided on **8th February, 2010** and **Splendor Landbase Limited vs. Mirage Infra Limited & Anr., FAO(OS) No.150/2010** decided on **9th April, 2010.**

2. When the Court calls for written arguments to be submitted, it

is expected to be something as would assist the Court in its endeavour to do justice and decide the case. Simply filing a list of judgments and attaching photocopies does not assist the Court nor does filing long-winded arguments which are not structured and properly arranged.

3. Written arguments, which Order XVIII Rule 2(3A) of the Code of Civil Procedure also recognizes, ought to be such that would assist the Court. The pattern would vary from case to case but generally Written Arguments should comprise a very brief list of dates, the admitted facts and the disputed facts. The points to be decided should be duly formulated as questions or propositions. In case issues have been framed, separate arguments on each issue are necessary unless two or more issues are such which can be more conveniently addressed together. The factual premises on which a particular argument is given has to be stated on each issue so that the proposition can be appreciated in that light.

4. For each proposition, after stating the factual premises on which a particular argument is given, there should be first the applicable statute which can even be excerpted. Only then, case-law may be cited not just as the legal database on a computer shows up on a query; but each judgment has to be examined and only the more relevant ones for each topic be cited. The Court expects the lawyers to place all case laws, both for and against his case, so long as it is relevant to the proposition in question. Those from the Supreme Court be placed first; those from our High Court be placed next; and those from other High Courts be placed thereafter. In each grouping, the judgments are to be arranged in a reverse chronological order. This is in line with the law relating to

precedents. Thereafter, for each decided case which appears to be important, a brief resume of the factual scenario in which the judgment was rendered, is necessary whereafter the relevant portion can be excerpted or described.

5. If there are older judgments which have been noticed in a later judgment, then the older judgment need not be cited. But if the later judgment merely follows and says nothing new, then the older judgment, which contains the reasoning and also lays down the law, should be cited and against the first (later judgment) it ought to be noted that it simply follows or approves a particular earlier judgment. In that event, the earlier judgment may be excerpted or discussed together with a brief resume of the factual scenario in that case.

6. After the judgments have been cited or portions excerpted, the ratio-decidendi of the judgment needs to be stated, for, it is the ratio-decidendi and not the conclusion, that is binding as a precedent.

7. If there is a contention of the opposite side, it must be answered, and not ignored or left for the court to look for an answer. When all the points or proposition on which the arguments are addressed have been stated, there has to be a summing up so that the Court can get a fair idea of what the arguments are leading to.

8. Throughout these written arguments, page numbers and placitums of the documents or other material on the court record, and the reported judgment, must be given so that the Court can readily reach it in order to verify.

9. Lastly, keeping them brief is more helpful than giving a long mass of something which could even be incoherent. Structuring is

most important. If an approach as this followed, the Court gets full assistance, much lesser time of the Court is consumed, and there is less likelihood of the Court falling into error.

10. The parties are directed to file the written submissions not exceeding five pages on the above terms along with the copies of the judgments with relevant portions highlighted for the convenience of the court at least one week before the next date of hearing. The photocopies of the relevant pages of the documents already on record with relevant portions highlighted be also attached to the written submissions for ready reference and convenience of the Court.

11. List on 14th March, 2011.

12. Copy of this order be given 'Dasti' to learned counsel for both parties under signature of Court Master.

J.R. MIDHA, J

FEBRUARY 14, 2011
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