

Anoop Jain Vs. M/s Olina Professional Cosmetics Pvt. Ltd.

Civil Suit No.19 of 2014

06.07.2026 Present: Mr. Amit Sharma, Advocate, for the plaintiff.
Mr. Sanjay Sharma Darmora & Mr. Alvin Massey, Advocates, for the defendant.

OMP No.1280 of 2025

The instant application has been filed on behalf of the applicant/defendant under Order VIII, Rule 1A(3) read with Section 151 of CPC to place on record the Board Resolution dated 18.02.2013.

2. It has been averred in the application that the non-applicant/plaintiff is relying on one statement of account, allegedly signed by one of directors of the applicant/defendant-company, Sh. Vikas Jain. However, the power of said Vikas Jain to sign any document for and on behalf of defendant-company was revoked by the defendant, vide its resolution dated 18.02.2013. Therefore, to prove the fact that Viaks Jain, former director of the defendant-company, had no power to sign any documents on behalf of the company, one Satish Kumar was produced by the defendant as DW-3, who during his examination-in-chief, had placed on record Board Resolution dated 18.02.2013, which was exhibited as Ext. DW3/1. However, while exhibiting the said document, the plaintiff raised an objection that the said document was

placed on record for the first time. It has been further averred in the application that the board resolution was in public domain, therefore, its authenticity and genuineness cannot be doubted and since Vikas Jain had no authority to sign any document for and on behalf of the defendant-company, as such, the Board Resolution dated 18.02.2013 is a vital document for proper adjudication of the matter in dispute. It has also been averred by the applicant/defendant, in its additional affidavit, that while searching the original documents in respect of the case of the plaintiff, the defendant also found the original Board Resolution dated 18.02.2013, whereby the power of Shri Vikas Jain (former Director of defendant- company) to sign any document for and on behalf of the company was revoked by the defendant.

3. The non-applicant/plaintiff filed reply to this application, wherein he took the preliminary objections that permitting the applicant/defendant to place on record the aforesaid document at this belated stage will be prejudicial to him and would also be violative of the provisions of CPC and settled legal position. On merits, the contents of the application have been denied in toto. It has been averred that a new document, being introduced at the stage of examination- in-chief by defendant witness (DW-3), is in gross

violation of the provision of Order 13, Rule 1, CPC. Hence, prayer for dismissal of the application has been made.

4. I have heard counsel for the parties and also carefully gone through the material available on record.

5. Admittedly, said Vikas Jain was produced in the witness-box by the plaintiff as PW-3 and during his cross-examination by the defendant, he admitted that in the month of January, 2019, he was removed as director from the defendant-company. During evidence of the defendant, one Satish Kumar was produced in the witness-box as DW-3, who during his examination-in-chief, had placed on record Board Resolution dated 18.02.2013 as Ext. DW3/1. However, an objection was raised by the learned counsel for the plaintiff on the ground that this document can be placed on record only prior to framing of the issues or only after taking permission from the Court and secondly that this witness could not prove this resolution.

6. At this stage, it is apt to reproduce Order VIII, Rule 1A of the CPC, 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 counter-claim, 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.”

7. A plain reading of Order 8, Rule 1A(1) of CPC makes it clear that where the defendant basis 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 counter-claim, 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. As per sub-rule (3) of Rule 1A, the 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.

8. The Hon'ble Supreme Court in ***Sugandhi (dead) By Legal Representatives & another vs. P. Rajkumar represented by his Power Agent Imam Oli, (2020) 10 SCC 706***, held that the discretion conferred upon the Court to grant

such leave to the party to produce the documents is to be exercised judiciously. The relevant portion of the aforesaid judgment reads 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 sub-rule (3)."

9. In the instant case, as per the applicant/defendant, it was under the *bona fide* impression and belief that all the documents in its power and possession had already been placed on record alongwith written statement/counter-claim . However, on 18.08.2025, when the defendant produced its witness DW-1 to exhibit and prove the documents placed on record alongwith the written statement/counter-claim, the defendant came to know that the original documents were not on record and while searching the original documents in respect of the case of the plaintiff, the defendant also found original Board Resolution dated 18.02.2013, where by the power of Shri Vikas Jain (former Director of defendant-company) to sign any document for and

on behalf of defendant-company was revoked by the defendant.

10. Since PW-3 Vikas Jain has admitted during his cross-examination that he was removed as Director from the defendant company in the month of January, 2019, therefore, *prima facie*, in the opinion of this Court, this document is necessary to arrive at just decision of the case.

11. Therefore, in view of the discussion made hereinabove and also in view of the exposition of law as laid down by the Hon'ble Supreme Court in ***Sugandhi's*** case (*supra*), wherein it has been held that procedural and technical hurdles shall not be allowed to come in the way of the Court while doing substantial justice, the instant application is allowed, subject to costs of Rs.20,000/- and the applicant/defendant is permitted to produce on record the Board Resolution dated 18.02.2013 in accordance with law. However, the non-applicant/ plaintiff is at liberty to take all grounds as available to him under law with respect to the admissibility of the aforesaid document during cross-examination of DW-3, Satish Kumar.

12. It is made clear that the payment of costs shall be a condition precedent to the further prosecution of the defence by the defendant.

13. The application stands disposed of.

Civil Suit No.19 of 2014

14. Now, list the case before the Additional Registrar (Judicial) on **21.07.2026**, for fixing the date of cross-examination of defendant's witnesses.

**(Sushil Kukreja)
Judge**

July 06, 2026
(V.Himalvi)