

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P.No.3150 of 2019

Muhammad Azam and others

Versus

Additional District Judge, Islamabad and others

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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29.01.2020

Mr. Abdul Wahid Qureshi, Advocate for the petitioners,
Malik Talha Ahmed Rahim, Advocate for the private respondents.

Through the instant writ petition, the petitioners impugn the order dated 12.07.2019 passed by the Court of the learned Additional District Judge, Islamabad, whereby respondent No.2's civil revision petition against the order dated 23.04.2019 passed by the Court of the learned Civil Judge, Islamabad, was allowed. Vide order dated 23.04.2019, the learned Civil Court had allowed the petitioners' application under Order XIII, Rule 2 of the Code of Civil Procedure, 1908 ("C.P.C.").

2. Learned counsel for the petitioners submitted that the orders passed by the learned Courts below are at variance; and that the learned revisional Court erred by taking the view that no "*good cause*" had been given by the petitioners for not mentioning the documents in the list of reliance that were sought to be produced/summoned at the time of the filing of the written statement. Learned counsel for the petitioners prayed for the writ petition to be allowed in terms of the relief sought therein.

3. On the other hand, learned counsel for the private respondents submitted that the documents which the petitioners were seeking to produce before the learned Trial Court were already in existence when the petitioners filed

their written statement; that the written statement was filed in October 2006 whereas the application for the filing of additional documents was filed by the petitioners on 08.04.2019; that the learned Appellate Court was correct in holding that no plausible explanation had been given by the petitioners for not including such documents in the list of reliance filed along with the written statement. Learned counsel for the private respondents prayed for the writ petition to be dismissed.

4. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. It is an admitted position that the documents which the petitioners were seeking to produce before the learned Civil Court were already in existence prior to the filing of the written statement in October 2006. Despite the same, the petitioners had not included such documents in the list of reliance. No plausible explanation was given by the learned counsel for the petitioners for the inordinate delay of almost thirteen years in filing an application for the production of such documents. The evidence of the plaintiffs/respondents has already been completed. The plaintiffs/respondents would be prejudiced if the petitioners were to be permitted to bring such documents on the record. The reasoning given by the learned Appellate Court for not allowing the petitioners to produce the additional documents is plausible and strictly in accordance with the law.

6. Be that as it may, I am of the view that the learned Appellate Court did not exercise its discretion arbitrarily by dismissing the petitioners' application for the production of

additional documents. Consequently, this petition, being devoid of merits, is dismissed with no order as to costs.

**(MIANGUL HASSAN AURANGZEB)
JUDGE**

Sultan*

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