

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.2330 OF 2009
[Arising out of SLP(C)No.17249 of 2008]

KAPIL KUMAR SHARMA

... Appellant(s)

Versus

LALIT KUMAR SHARMA & ANR.

... Respondent(s)

WITH
CIVIL APPEAL NO.2331 OF 2009
[Arising out of SLP(C)No.17250 of 2008]

ORDER

Leave granted.

These appeals are directed against the judgment and order dated 6th November, 2007 passed by the Division Bench of the Delhi High Court against the common order passed in FAO(OS)No.443-444 of 2007. The said appeals were directed against the order dated 23rd July, 2007, passed by the learned Single Judge, dismissing the appellant's application, under Order 7 Rule 14, CPC, seeking leave to file additional documents in Probate Case No. 40 of 1999 and Civil Suit No. 1632 of 1996. The learned Single Judge by his said order dismissed the

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application and the said order was upheld by the Division Bench seemingly on the

ground that the matters were ready for hearing and were at the stage of cross examination and, accordingly, such prayer could not be granted.

Having heard learned counsel for the respective parties, we are unable to agree with the decision of the Division Bench as also the Single Bench as we have been informed that the cross-examination has not yet commenced. In such a situation, we see no reason for debarring the appellant from filing the additional documents in support of his claim.

We accordingly, allow the appeals and set aside the orders passed, both by the Division Bench as also the Single Bench and allow the appellant's application under Order 7, Rule 14 CPC and direct that the additional documents filed by the appellant be taken up for consideration subject to proof thereof.

The appeals are accordingly allowed.

There will be no order as to costs.

.....J.
(ALTAMAS KABIR)

.....J.
(B.SUDERSHAN REDDY)

New Delhi,
April 09, 2009.

JUDGMENT