**IN THE COURT OF SH. PRAMOD KUMAR SINGH
CIVIL JUDGE, SOUTH- EAST, NEW DELHI
IN CS SCJ 1055/2022**

**NEELAM GUPTA & ORS. …PLAINTIFFS**

**VS**

**RAM SIMRAN SOCIETY AND ORS.**

**…DEFENDANTS**

**LDOH: 03.09.2023**

**NDOH: 11.10.2023**

**APPLICATION on behalf of defendantS UNDER ORDER 8 RULE 1A (3) OF THE CODE OF CIVIL PROCEDURE, 1908 SEEKING PERMISSION TO FILE THE DOCUMENTS alongwith affidavit**

MOST RESPECTFULLY SHOWETH:

1. that the captioned case is pending adjudication before this Hon’ble Court.
2. That the applicant is the Defendant No.1 in the captioned matter. This application is being filed on behalf of defendant no. 1 i.e. the society through its President duly authorized by way of MOA and bye-laws as well as resolution, and also in capacity of defendant no. 2 and on behalf of Defendant No. 3.
3. That the defendants have filed their Written Statement to the plaint on 20.09.2022. The copy of the same was supplied to the plaintiff as well.
4. That it is pertinent to mention that an error occurred while filling the written statement on 20.09.2022. Despite mentioning it in reply/ written statement, mistakenly the office records and the letter of intimation sent to the concerned ROS East, were left to be annexed alongwith the written statement. That the defendants, under Para No. \_\_\_\_ of the Reply on Merits/ Preliminary objections have specifically replied to the Plaint/ stated that the plaintiff had annexed the erstwhile/ un-amended bye-laws alongwith the plaint. Furthermore, it was mentioned under Para 19 Sub-Para D of the Reply on Merits in the written statement that *“The amended set of office records were sent to the concerned ROS.”*
5. That necessary is to mention that the said amendment of Clause 10 i.e. *“Member’s Liabilities”* of the office records was duly approved in the 1st AGM of the Society, and the Minutes of Meetings were thereby circulated to all the respective society members.
6. However, it is pertinent to mention that the copy of the Minutes of Meeting of 1st AGM and the copy of set of the office records mistakenly were not annexed with the written statement despite mentioning of the same.
7. That by way of this application defendants seeks the permission of this Hon’ble Court to file the following documents:
	1. Minutes of meetings of the 1st AGM conducted on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;
	2. A copy of set of office records;
	3. A copy of the letter of intimation sent to the ROS, East dated 16.03.2022(as mentioned in Para 19 Sub-Para D of the Reply on Merits/ Preliminary objections in the written statement).
8. That such an action of defendants was neither intentional nor deliberate but due to the reasons stated above.
9. That it is emphasized herein that the by way of this present application the defendants are not introducing any new documents but the same which have been duly mentioned in the written statement and could not be filed due to the reasons stated above.
10. That taking on record the mentioned document would in no way, will prejudice the plaintiff. Further, the taking on record of the mentioned documents would not create any new defence so as to take away any right that might have been created in favor of the plaintiff. That by way of the present application the defendants are not seeking any amendment in the written statement.
11. That there is no necessary delay in fling the present application and documents. The non filing of the documents alongwith the written statement came to the notice at the time of preparation of the affidavit with regard to the admission and denial of the documents.
12. That the case is at very initial stage and till date the issues have not been framed.
13. That it is respectfully submitted that the matters be decided on merits rather than upon the hyper technical approach. The defendant no.1 being a society governed by its managing committee is for the benefit of its members including the plaintiffs and, hence, reasonable opportunity must be given to the society and its managing committee to bring on record all the proceedings and documents that have taken place within the ambit of law.
14. That the defendants on the other hand will be highly prejudiced if the present application stands dismissed.
15. That non filing of the above mentioned documents were neither deliberate nor intentional but due to the aforementioned reasons.
16. That no prejudice will be caused to the plaintiff if this Hon’ble court allow the present application and would thereafter take on record the documents filed by way of this application.

**PRAYER**

It is most respectfully prayed that considering the above, this Hon’ble Court may be graciously be pleased to allow the present application and thereby take on record the (a.) Minutes of meetings of the 1st AGM conducted on \_\_\_\_\_\_\_\_\_\_, (b.) A copy of the set of the office records and, (c.) A copy of the letter of intimation sent to the ROS, East dated 16.03.2022.

For this act of kindness the defendants shall ever pray.

It is prayed accordingly,

Defendant no.1

through
Defendant No.2/ President

NEW Delhi

Dated

 through
**(TARAN S. SOKHI)**

**advocate**

**Verification**:

Verified at Delhi on this \_\_ day of September, 2023 that the contents of application are true and correct to my knowledge and knowledge derived from the records. last Para is prayer to this Hon’ble Court.

DefendanT.

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**Affidavit**

I, **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, S/o \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_R/o \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, aged about \_\_\_ years having office at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, do hereby solemnly affirms and declare as under:

1. That I, the deponent is the defendant no. 2 and the **President of Ram Simran Society** in the captioned matter and is well aware and conversant with the facts and circumstances of the case and competent to swear this affidavit. I am filing this affidavit on behalf of the defendant no. 1 i.e. society as its President duly authorized by way of MOA and bye-laws as well as resolution, and also in capacity of defendant no. 2 and on behalf of defendant no.3
2. That the contents of the accompanying application have been drafted by the counsel of the defendants under our instructions. I have gone through the contents of the same, and the facts stated in paragraphs No.1 to 14 of the application are true and correct to my knowledge and knowledge as derived from the records. last Para is prayer to this Hon’ble Court. the contents of the accompanying application may be read as part and parcel of this affidavit which are not being reproduced herein for the sake of brevity.

**Deponent**

**Verification**:

Verified at Delhi on this \_\_ day of September, 2023 that the contents of the above affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed from.

**Deponent**