

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10843 OF 2015
WITH
WRIT PETITION NO. 10850 OF 2015

Mather and Platt (India) Ltd.	..	Petitioner
VS.		
Depe Global Shipping Agencies Pvt. Ltd.	..	Respondents

Mr. D. D. Madon - Senior Advocate with Mikhail Behl i/b. Sonal Doshi & Co. for Petitioner.
Mr. Yashpal Jain with Mr. Kaustubh Joshi i/b. M/s. Haresh Jagtiani & Associates for Respondents.

CORAM : M. S. SONAK, J.
DATE: 29 OCTOBER 2015

P.C. :-

- 1] **Not on board. Upon production, taken on board.**
- 2] Both these petitions can be disposed of with the common order.
- 3] The challenge in Writ Petition No. 10850 of 2015 is to the order dated 23 July 2015, by which the Respondents have been granted leave to lead additional evidence. This leave was granted at a stage where the Plaintiffs witness had tendered his affidavit in

examination in chief and even before the cross-examination could commence. The reasons for grant of such leave have been set out in the order dated 23 July 2015. There is really no jurisdictional error in the matter of grant of such leave. There is no question of any real prejudice to the Petitioners either. Therefore, there is no reason to interfere with the order dated 23 July 2015.

4] Leave has been granted on the basis that some resolutions and other documents were not available when the earlier affidavit was filed. Leave has been granted in the context of production of certain board resolutions and other documents. The impugned order does not in any manner shut out opportunity of cross-examination or for raising any further objections in the course of cross-examination. Accordingly, no case is made out to exercise supervisory jurisdiction under Article 227 of the Constitution of India. The Writ Petition is dismissed.

5] In Writ Petition No. 10843 of 2015, the challenge is to the admissibility of certain documents. Mr. Madon, the learned Senior Advocate for the Petitioner has pointed out that certain documents, which are purported minutes of proceedings of meetings have not been kept in consonance with the provisions prescribed in Section 118 of the Companies Act, 2013. On this ground, Mr. Madon has

submitted that the minutes ought not to have been admitted in the evidence.

6] At this stage, it is not necessary to entertain the petition against the impugned order. In the first place even though the documents have been ordered to be exhibited, the impugned order itself states that all objections have been left open. In any case, the issue of evidentiary value of such documents is required to be considered at a later stage and there is no reason to presume that the evidentiary value of such documents will not be considered by the Trial Court at the appropriate stage. In any case, it is clarified that all objections with regard to the evidentiary value of such documents are left open and the same will be considered by the Small Causes Court at the appropriate stage.

7] That apart, in case, the matter is ultimately decided against the Petitioner, the Petitioner in a substantive appeal which it may choose to institute will obviously have a right to challenge all such orders, including the order impugned in the present petition. Accordingly, there is no necessity to entertain the petition under Article 227 of the Constitution of India, at this stage.

8] This petition is therefore dismissed with liberty as aforesaid.

9] All concerned to act on basis of authenticated copy of this order.

Chandka

(M. S. SONAK, J.)