

A.Nos.5779 and 6158 of 2015**in****C.S.No.822 of 2007****G.CHOCKALINGAM, J.**

Application No.5779 of 2015 has been filed by the applicant/defendant to receive and mark along with the proof affidavit the following additional documents as Exhibits-D.4 to D.8.

<i>SL. NO.</i>	<i>DATE</i>	<i>DESCRIPTION OF DOCUMENTS</i>	<i>REMARKS</i>	<i>EXHIBITS</i>
1.	17.07.2015	Authorization Letter issued by the defendant	Original	D4
2.	09.07.2005	Tender Notice advertisement in "The Hindu"	Xerox	D5
3.	08.11.2005	Letter written by the defendant to the plaintiff	Xerox	D6
4.	25.11.2005	3 Letters written by the plaintiff to the defendant	Xerox	D7
5.	03.12.2005	Tuticorin Port Board Agenda No.36	Xerox	D8

2. Application No.6158 of 2015 has been filed by the applicant/defendant to receive and mark the following additional documents along with the proof affidavit to be filed by the defendant as Exhibits-D.9 to D.12.

SL. NO.	DATE	DESCRIPTION OF DOCUMENTS	REMARKS	EXHIBITS
1.	05.11.2005 & 06.11.2005	Statement of discussions connected to Ex-D6	True Copy	D9
2.	10.01.2006	Minutes of the Tender Committee Meeting	Original	D10
3.	18.02.2006	Minutes of the 5th Ordinary Meeting of the Board of Trustees	True copy attested by General Manager	D11
4.	1992	FIDIC (Federation Internationale Des Ingenieurs-Conseils)	Internet Copy	D12

3. Learned counsel for the applicant/defendant contended that one Mr.R.Seshadri was authorized by the defendant to depose evidence on behalf of the defendant and the authorization letter dated 17.07.2015 was already produced along with this affidavit. It is further contended by the learned counsel for the applicant/defendant that the above mentioned list of documents are necessary to prove the case of the applicant/defendant and if the same are not received by this Court, the applicant/defendant will be put to irreparable loss and hardship and hence, the learned counsel for the applicant prays for

allowing of both these applications by receiving the above additional documents filed along with these applications for the purpose of marking the same as Exs.D.4 to D.12.

4. Learned counsel for the respondent/plaintiff contended that these applications are filed by the applicant/defendant only to mislead the Court with the alleged documents created for the purpose of the case and hence, both the applications are not maintainable. In this case, written statement was already filed and issues were also already framed. Even though the applicant/defendant has filed written statement, they have not filed any additional written statement. The applicant/defendant has filed proof affidavit and at that time also, they have not produced the documents. Hence, the learned counsel for the respondent/plaintiff contended that both these applications are devoid of merits and the same are liable to be dismissed.

5. In this case, the trial is only at the stage of recording evidence. Whether the documents are admissible or inadmissible, the respondent/plaintiff is always at liberty to object the documents, if

the documents are inadmissible and it is not in accordance with law. It is admitted by both parties that in this case, recording of evidence is not yet over.

6. In view of the above facts and circumstances of the case, this Court is of the considered view that it is just and necessary to receive the additional documents mentioned in the applications, subject to proof and relevancy of the same according to law. Since the trial is at the stage of recording of evidence, this Court has not considered the allegations mentioned in the application or in the counter affidavit and all the questions raised by both the parties left open and only documents are ordered to be received, subject to proof and relevancy.

7. Accordingly, both these applications are allowed and the applicant/defendant is permitted to file the above mentioned additional documents, subject to proof and relevancy of those documents. It is open to the parties to raise their objections with regard to the admissibility and relevancy of those documents at the time of recording the evidence.

8. The Registry is directed to list the matter before the learned Additional Master- II for recording evidence and the learned Additional Master-II is directed to receive the additional documents mentioned in these applications, subject to proof and relevancy, according to law.

06.11.2015

Jrl

G.CHOCKALINGAM, J.

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Pre-Delivery Order in
A.Nos.5779 and 6158 of 2015
in
C.S.No.822 of 2007

06.11.2015

