

A.No.7250 of 2015

in

C.S.No.75 of 2012

M.SATHYANARAYANAN, J.

The matter is listed today at the instance of the learned Additional Master III seeking clarification in respect of paragraph No.4 of the order dated 23.11.2015 made in Application No.7250 of 2015.

2. The Court heard the submissions of the learned counsel appearing for the applicants as well as the respondent.

3. Paragraph No.4 of the order dated 23.11.2015 passed in Application No.7250 of 2015 is to be read as follows:

“4. The applicants/defendants seeking leave to receive the following documents:

(i) Letter dated 07.08.2011 written by M/s.Vasans Visual Ventures Pvt. Ltd., to M/s.Sarala Diwakar.

(ii) Xerox copy of the advertisement dated 11.09.2011 published in Dinathanthi daily- Bangalore edition.

(iii) Receipt bearing No.1741 dated 15.09.2011 issued by Gemini Industries & Imaging Limited, K.K.Nagar, Chennai-78, purported to have been issued on receipt of a sum of Rs.1,18,060/- said to have been paid by the plaintiff.

(iv) Letter dated 15.09.2011 addressed by

M/s.Vasans Visual Ventures Pvt. Ltd., addressed to M/s.Gemini Industries & Imaging Ltd.

Insofar as Document Nos.1 and 2 are concerned, there is a reference to the same in paras 6 and 11 of the written statement and insofar as Document No.3 is concerned, PW1 was also specifically cross examined in respect of the said document and hence, there is no impediment to receive the said documents as sought for by the applicants/defendants. Hence, Document Nos.1 and 2 are ordered to be received. It is a well settled position of law that mere marking of documents does not amount to proof and the burden lies on the party who mark those documents to prove its genuineness, proof and relevancy. Insofar Document No.4 is concerned, there is no pleading in the written statement and PW1 was also not cross examined in respect of the said document and therefore, it cannot be received. It is made clear that as and when Document No.1 and 2 are marked as exhibits, PW1 is entitled to clarify the same by recalling himself or through re-examination.”

Registry is directed to carry out the necessary amendment and re-issue the order copy to the respective learned counsel appearing for the parties on payment of necessary charges.

Post the suit before the learned Additional Master III on

31.03.2016 for continuation of evidence.

24.03.2016

gm

M.SATHYANARAYANAN, J.

gm

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