

M/s. Sanat M. Dalal	...	Petitioner
Vs.		
Reliance Industries Limited	...	Respondent

CORAM : R. G. KETKAR, J.
DATE : FEBRUARY 04, 2016

Heard Mr. Sen, learned Counsel for petitioner and Mr. Shukla, learned Counsel for respondent No.1 at length. Mr. Sen orally applies for deletion of respondents No.2 to 13. On the oral application made by Mr. Sen, respondents No.2 to 13 are allowed to be deleted from the present proceedings. Amendment shall be carried out forthwith.

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obtain permission to adduce secondary evidence though sufficient opportunity was given. Plaintiff is not the author of the documents at Sr. No.3, 4, 12, 13, 14, 19, 20 and 37. The contents of these documents have not been proved as provided under Section 67 read with Section 60 of the Indian Evidence Act, 1872 (for short 'Act') The document at serial No.19 is not the certified copy of the public document within the meaning of Section 76 of the Act and hence these documents cannot be marked as exhibit. The document at serial No.38 is not proved as per the provisions of the Act. Hence, that cannot be marked as exhibit in view of the decision of Rajasthan High Court in **Ramswarup Bagari Vs. State**, *AIR 2002 Rajasthan 27* and the decision of the Apex Court in the case of **B. Singh Vs. Union of India**, (2004) 3 SCC 363.

3. Mr. Sen states that within one week from today, plaintiff will take out application for leading secondary evidence. He further seeks permission to withdraw application exhibit-32 for exhibiting documents as the said application could have been filed after obtaining leave for leading secondary evidence.

4. In view thereof, Petition is disposed of in the following terms:

- a. Order dated 20.10.2015 closing evidence of the plaintiff is set aside;
- b. Order dated 20.10.2015 below exhibit-30 is also set aside;
- c. Plaintiff is permitted to withdraw application exhibit-32 for exhibiting documents with liberty to file it after the trial Court passes order on the proposed application for leading secondary evidence;
- d. Application for leading secondary evidence shall be filed within one week from today;
- e. The learned trial Judge will pass appropriate order thereon

in accordance with law;

f. All contentions of the parties on merits are expressly kept open;

g. In view of the withdrawal of the application exhibit-32, the order dated 05.11.2015 stands dissolved. The learned trial Judge will pass appropriate order on the proposed application for leading secondary evidence, in accordance with law and uninfluenced by the observations made in this order or in the impugned orders.

(R. G. KETKAR, J.)

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