

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO.1668 OF 2016

IN

SUIT NO.2415 OF 1997

Sai Galvanizers & Fabricators Ltd.Applicant/Plaintiff

V/s.

SICOM Limited & Ors.Defendants

Ms. Anita Castellino a/w. Ms. Alisha Lambay i/b. Lambay & Co. for the applicant/plaintiff.

Mr. Atit Shukla a/w. Mr. Dharmesh Pandya i/b. Ashwin Pandya and Associates for the defendant no1.

Mr. R. Mohite i/b. Vigil Juris for the defendant nos.2 and 3.

Mr. U.S. Upadhyay, AGP for Directorate of Industries-State.

CORAM : K.R.SHRIRAM,J

DATE : 16th SEPTEMBER, 2016

P.C.:-

1 The plaintiff has taken out this notice of motion for the following relief :-

“(a) that the documents produced by the

*(1) Directorate of Industries,
District Industries Centre,
Commercial Office Complex Building,
Opp. Modella Woollen Mills,
Thane.*

*(2) Directorate of Industries.
Sick Unit Cell, District Industries Centre,
Commercial Office Complex Building,
Opp. Modella Woollen Mills,
Thane.*

(3) Registrar of Companies.

*I. Memorandum and Articles of Association dated 8.5.1996
of Karamtara Engineering Pvt. Ltd.
Company No.11-99333.*

*II. Form No.20 B of KEC International Ltd.
Corporate Identity No.L45200MH2005PLC152061
For the years 1994 to 1998
Such other document as may be produced by ROC.*

*(4) Government of India
Ministry of Corporate Affairs,
Assistant Director/CPIO,
5th Floor, A Wing, Shastri Bhavan,
Dr. R.P. Road, New Delhi – 110 001.*

*be taken on record and marked as Exhibits and the plaintiff
be permitted to rely upon the same.”*

2 The counsel appearing for the defendants have filed affidavits in reply. The counsel state that subject to proving the contents of the documents, subject to the defendants' right to cross examine the plaintiff's witness and subject to their submissions on the relevancy of the documents, the documents could be received in evidence and marked as Exhibits.

3 In view of the above, keeping open the contentions raised by the counsel for the defendants, the documents which the plaintiff is praying to be received in evidence as mentioned in prayer clause (a) quoted above, are received in evidence and marked **Exhibit PP colly., Exhibit QQ colly., Exhibit RR colly. and Exhibit SS colly.**

4 The notice of motion accordingly stands disposed.

5 Mr. Upadhyay, AGP appearing for the Directorate of Industries states that the original documents be returned. The counsel appearing for the plaintiff and the defendants state that on the previous occasion His Lordship Hon'ble Justice S.J. Kathawalla had permitted the Directorate of Industries to take back the original documents with a direction to the plaintiff and the defendants to make photocopies thereof from the registry. The counsel appearing for the plaintiff and the defendants state that they have made photocopies of the documents and the documents could be returned. Mr. Upadhyay, AGP states that the Directorate of Industries will produce the original documents as and when called upon by the Court. Mr. Upadhyay, AGP further states that the Government Pleader's office will replace the original documents with photocopies duly certified as true copies. Ms. Castellino, counsel for the plaintiff, on instructions states that the plaintiff will pay for the photocopying charges to the office of the Government Pleader.

6 In view of the above, the Prothonotary and Senior Master, High Court, Bombay to return the original documents filed by the Directorate of Industries after being satisfied that the office of the Government Pleader has supplied the photocopies duly certified as true copies.

7 The Commissioner to endeavor to complete recording of evidence of PW-2 by 30th November, 2016. The Commissioner to fix minimum two/three dates per session for cross examination of PW-2. If the parties do not respond promptly within 48 hours of receiving a communication from the Commissioner suggesting the subsequent dates, the Commissioner to go ahead and fix the dates convenient to him and the parties shall make themselves available at the time and dates fixed by the Commissioner. If the plaintiff or the witness does not remain present, the Commissioner should close the evidence of PW-2 and if the defendants do not remain present to cross examine the witness, the defendants' cross examination should be treated closed as no cross. Once the dates are fixed, the Commissioner not to grant adjournment on any ground whatsoever unless the situation is so grave that it warrants an adjournment and for reasons recorded.

Liberty to apply.

(K.R.SHRIRAM,J)