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IN THE HIGH COURT OF DELHI AT NEW DELHI

CM(M) 713/2014 & C.M. No.12139/2014

M/S ATSAR EXPORTS PVT LTD

..... Petitioner

Through Mr.Sunil Dutt Salwan, Advocate.

versus

M/S FEDERAL EXPRESS & ORS

..... Respondents

Through Mr.Rajendra Beniwal, Advocate for
R-1.
Mr.D.D.Singh and Mr.Navdeep
Singh, Advocates for R-3.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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22.02.2016

Order impugned before this Court is the order dated 13.11.2013 vide which the application filed by the plaintiff under Order VII Rule 14 of the CPC seeking permission to place on record a copy of the Marine Insurance Policy bearing Cover no.3114019900017 and the dispatch register was dismissed.

This application was admittedly filed at the stage when the matter was in progress for final arguments.

Record shows that the present suit is a suit for recovery of Rs.12,00,170/- There were four defendants before the Trial court. The insurance company was impleaded as defendant no.4. The contention of the plaintiff was that he had sent certain goods through

defendant nos.1 and 2 to customers abroad; those goods were not delivered. His further submission is that the goods had been insured with the defendant no.4 (Insurance Company). The present suit was accordingly filed for recovery of the aforementioned amount (because of the loss and damage suffered by the plaintiff) against all the defendants co-jointly.

Learned counsel for the petitioner has drawn attention of this Court to an application dated 20.7.2011 filed under the Right to Information Act seeking wherein certain information was sought which information was finally obtained by him on 11.8.2011. The present application was filed on 09.02.2012.

Record further discloses that in the written statement which was filed by the Insurance Company, it was stated that the plaintiff had not filed any document with the plaint to the insurance of an open marine policy as such he would not be entitled to any relief qua defendant no.4/Insurance Company.

The application filed before the Trial Court seeking to place on record the aforementioned documents (under Order VII Rule 14 of the CPC) was replied to by defendant no.4. In this reply, it was stated that the Policy bearing Cover no.3114019900017 is an open cover and is an agreement but this does not qualify as a policy; however, the document was admitted. This was a public document. The Trial Court should have kept this in mind. It is not as if this document was in any doubt or its veracity was under challenge.

Learned counsel for the petitioner submits that this document would be relevant to decide the fate of his case. His claim against

defendant no.4 can be answered largely by this document only; it is a relevant document and the petitioner has obtained this document pursuant to the RTI application; it was incumbent upon the Insurance Company to have admitted this document but the plaintiff had to take an extra step to obtain this document which he had obtained only through an RTI application.

This document as noted supra is an admitted document. It is the plaintiff who will have to suffer if this application is not allowed. His case will take a reverse gear. The defendants before this Court for the inconvenience caused can be compensated by cost.

The prayer made in the application is accordingly allowed. The Cover no.3114019900017 is taken on record. Whether this document is a cover or an agreement on marine policy will be decided by the Trial Court as the contention of the petitioner before this Court is that this document qualifies as an open marine policy whereas the contention of the learned counsel for Insurance Company (defendant no.4) is that this is otherwise.

This order is passed subject to payment of Rs.5000/- as costs.

Petition disposed of.

INDERMEET KAUR, J

FEBRUARY 22, 2016

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