

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 2136 OF 2017

Mukand Ltd.	... Petitioner
Vs.	
M/s. Quality Engineering Works	... Respondent

Mr. Pritesh Rajgor, Advocate for the petitioner.
Ms. Bijal Vora i/b. Clove Legal, Advocate for the respondent.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **3rd May, 2017.**

P.C.:

Rule. Rule made returnable forthwith. By consent, this Petition is heard finally and disposed of at the stage of admission.

2. This Petition is directed against the order dated 20th October, 2016 passed by the Ad-hoc District Judge, City Civil & Sessions Court, Greater Mumbai in Exhibit 26 in Suit No. 8735 of 1992 thereby allowing the Application of the plaintiff to produce the additional documents after its cross-examination is over.

3. The learned counsel for the petitioner/original defendant submitted that the suit is filed for damages and costs of plant and machinery. The respondent/plaintiff ought to have produced the

documents along with the plaint. Some of the documents which are bills are unpaid bills of the work done and that is not the subject matter of the suit. He further submitted that if these documents are allowed in the record, then it will change the nature of the suit and therefore, these documents are not to be allowed. He further submitted that no defence is taken in respect of these documents in the written statement and that will cause prejudice to the petitioner.

4. The learned counsel for the respondent while opposing this Petition has submitted that the order passed by the learned Judge is correct and justified. She submitted that the questions were put in the cross-examination of the respondent/plaintiff in respect of documents of partnership deed and also other documents, therefore, the plaintiff on the next date has come along with the documents and the plaintiff wants to tender those documents in the evidence. She further submitted that the learned Judge in her order has given liberty to the petitioner/defendant to re-cross examine of those documents with the view to decide the real point of controversy.

5. Perused the order and considered the submissions made by the learned counsel for both the parties. The documents are

produced immediately after the cross-examination of the plaintiff. Whether the document is to be believed or to be discarded is a matter of appreciation of the evidence and the learned counsel for the defendant can make submission at the time of final arguments in respect of reliability of these documents. The documentary evidence at this stage cannot be disallowed and the order passed by the learned trial Judge does not require any interference. Hence, Writ Petition is dismissed.

(MRIDULA BHATKAR, J.)