

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

**SUIT NO.1705 OF 1998
WITH
NOTICE OF MOTION NO.3644 OF 2011
IN
SUIT NO.1705 OF 1998**

Bralco Metal Industries LimitedPlaintiff

Vs.

M/s. Elite Auto Industries and Ors.Defendants

Mr. Shailesh Dalal i/b. Dalal and Co. for plaintiff.

Mr. Girish Kedia for defendant no.1.

CORAM : K.R.SHRIRAM, J.

DATE : 7th JULY, 2017

PC.:

1 The counsel state that notice of motion no.3644 of 2011 taken out by plaintiff, which is listed on board, is still pending. This notice of motion is for appointment of Court Receiver in respect of the suit premises. The counsel for plaintiff states that no application for ad-interim relief was even made. The suit is of the year 1998. Notice of motion is of the year 2011. We are in 2017 and the trial has also begun. I see no reason why the relief as sought in the notice of motion should be granted at this stage.

2 Therefore, notice of motion accordingly stands disposed.

3 The stage of the suit is that evidence of plaintiff has already been filed and documents have also been marked. What requires to be done is appointment of Commissioner.

4 Mr. Salil Shah, an Advocate practicing in this court, is appointed as Commissioner to record evidence in the matter. The fees, administrative expenses of the Commissioner together with typing charges and venue charges, if any, to be shared equally between the parties and the same will be costs in the suit.

5 The Commissioner to endeavor to complete recording of evidence of PW-1 by 30th September, 2017. The Commissioner to fix minimum two/three dates per session for cross examination of PW-1. 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 the Commissioner and the parties shall make themselves available at the time and dates fixed by him. If plaintiff or witness does not remain present, the Commissioner should close the evidence of PW-1 as not made available for cross and if defendants do not remain present to cross examine the witness, 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.

Liberty to apply.

(K.R. SHRIRAM, J.)