

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 16th DAY OF AUGUST 2017

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

A. No.4417 of 2017
in
C.S. No.979 of 2007

M/s.TVS Motor Company Limited,
Jayalakshmi Estates,
No.29, Haddows Road,
Chennai-600 006
rep. by its Authorized Signatory,
Mr.Harne Vinay Chandrakant

... Plaintiff

-Versus-

M/s.Bajaj Auto Limited,
Akurdi, Pune-411 035
Maharashtra

... Defendant

A. No.4417 of 2017:-

M/s.TVS Motor Company Limited,
Jayalakshmi Estates,
No.29, Haddows Road,
Chennai-600 006
rep. by Company Secretary,
Mr.K.S.Srinivasan

... Applicant/Plaintiff

-Versus-

M/s.Bajaj Auto Limited,
Akurdi, Pune-411 035
Maharashtra
rep. by Mr.S.Ravikumar

... Respondent/Defendant

Application praying that this Hon'ble Court be pleased to permit the applicant to take on record and mark the certified copies of the Official English Translations of Japanese Patent Application No.2000-31040 corresponding to the Indian Patent Application No.82/MUM/2001 and Japanese Patent Applications Nos.2000-240391 corresponding to the Indian Patent Application

No.678/MUM/2001 applied for by Honda Giken Kogyo Kabushiki Kaisha respectively, duly certified by the Government of India Patent Office, Mumbai in relation to Ex.P39 and Ex.P40 respectively, that is annexed herewith, during re-examination of PW1.

This application coming on this day before this Court for hearing the Court made the following order:-

Application No.4417 of 2017 has been filed by the applicant/plaintiff in C.S. No.979 of 2007.

2. The witness for the plaintiff P.W.1 is in the witness box. P.W.1 has filed his proof affidavit. Subsequently, he has also been completely cross examined.

3. It is the grievance of the learned senior counsel for the defendant, Mr.Aravind Pandian, that, during the examination in chief and cross, the witness had not disclosed about the availability of translated version of Japanese Patent Application Nos.2000-240391 and 2000-31040, which are claimed respectively in Patent No.678/MUM/2001 and Patent No.82-MUM-2001. In fact, the learned senior counsel stated that the documents which are produced and dated 10.03.2017 and were not produced earlier, to the cross examination of P.W.1 and consequently, they were not shown the said documents and had they been shown the said documents sufficient verification could have been done regarding the authentication of the translation and also instructions could have been received from the defendant, with respect to the line

of cross examination to be adopted and also with respect to relevancy of the document.

4. The learned senior counsel P.S.Raman, who moved Application No.4417 of 2017 stated that the translation now produced are authenticated translation.

5. Be that as it may, since, the trial is time bound, the plaintiff should have produced the said documents, but that cannot be a reason to reject the said document. However, the documents produced, may only be given in exhibit numbers. The objections relating to marking the said documents would be considered during the time of arguments to be advanced.

6. The Advocate Commissioner, Mr.C. Manickam, is requested to note down the objections. These objections should be noted down in entirety. After completion of trial, and during advancement of arguments in the main suit, the admissibility of the documents, the authenticity of the translation and their relevancy will be considered.

7. With such observation, A.No.4417 of 2017 is allowed.

8. The learned senior counsel for the defendant stated that, he had cross examined P.W.1 on more than 60 occasions. After such effort, this document is now being produced. He is

now obliged to once again receive instructions and cross examine the witness. Producing this document after cross examination has been the root cause for this application being presented before this Court.

Consequently, costs are imposed. Accordingly, costs of Rs.10,000/- is imposed, which is payable by the plaintiff in C.S.No.979 of 2007 to the learned counsel for the defendant who is on record in C.S.No.979 of 2007.

sd/- C.V.K.J

16.08.2017

//Certified to be a true copy//

Dated this the day of 2017

jj 28.08.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.