

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.2695 OF 2018

Firdosh Minocher Homavazir] Petitioner

Vs.

Victory Auto Works] Respondent

.....

Mr. A.J. Uniyal i/b Rafique Mohammad Vanoo, for Petitioner.

Mr. Ranbir Singh a/w Mr. Hiren Shah i/b Prakash & Co., for Respondent.

.....

CORAM : R.G. KETKAR, J.

DATE : 7TH MARCH, 2018.

P.C.

Not on board. At the request of Mr. Uniyal taken up in the production board.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 29th September, 2017 passed by the learned trial Judge in R.A.D. Suit No.1724 of 2009. By that order, the learned trial Judge declined to mark as exhibits the documents at Sr. No. 2 to 18 of list Exhibit 41.

3. Rule. Mr. Singh, learned Counsel for the respondent waives service. Having regard to the narrow controversy raised in this Petition and at the request and by consent of the parties, Rule is made

returnable forthwith and Petition is taken up for final hearing.

4. It is common ground between the parties that the petitioner/plaintiff has produced certified copies of the documents filed in S.C. Suit No.4036 of 2008 pending in the City Civil Court, Mumbai. After arguing for some time, learned Counsel for the parties submit that by their consent documents in S.C. Suit No.4036 of 2008 pending in the City Civil Court Mumbai and which are relevant viz: documents at Sr. No.2 to 18 mentioned in the list Exhibit 41 of R.A.D Suit No.1724 of 2009 may be transmitted from City Civil Court, Mumbai to the Small Causes Court Mumbai for completing the cross-examination of the plaintiff in his suit pending in the Small Causes Court. The City Civil Court to transmit the documents at Sr. No.2 to 18 from the record of S.C. Suit No.4036 of 2008 to the Small Causes Court forthwith. The parties will extend full co-operation in the City Civil Court for taking out these documents from the record for transmitting it to the Small Causes Court. The parties will also extend full co-operation for taking photo copies of the documents at Sr. No.2 to 18 of the S.C. Suit No.4036 of 2008 from the record of the City Civil Court for retaining the same in the record of R.A.D. Suit No.1724 of 2009. After cross-examination of the plaintiff's witness is over, record of the City Civil Court shall be transmitted from Small Causes Court to City Civil Court.

5. In view thereof, impugned order stands substituted by the above order. Rule is made absolute with no order as to costs. All the parties including the City Civil Court and Small Causes Court to act upon authenticated copy of this order.

[R.G. KETKAR, J.]