

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWP227 No. 481 of 2019

- Hindustan Steel Works Ltd. (HSCL) (A Govt. of India Enterprise) Through Its Group Head Nirman Bhawan, Bhilai, District and Tahsil- Durg, Chhattisgarh.

---- Petitioner

Versus

- M/s S. Kumars Associates G.S. Compound, New Bus Stand, T.P. Nagar, Korba – 495677, Chhattisgarh.....(Plaintiff),

---- Respondent

For Petitioner	:-	Shri N. Naha Roy, Advocate
For Respondent	:-	Shri Kshitij Sharma, Advocate

Order On Board ByHon'ble Justice Shri Prashant Kumar Mishra25/06/2019

1. By the impugned order the Commercial Court has refused to permit the defendant to rely on some additional document which defendant could not file along with the written statement as required under Order 1 Rule 7 of the first Schedule of the Commercial Courts Act, 2015.
2. The plaintiff has filed a suit for damages against the petitioner. The application under Order 11 Rule 1(10) read with Section 151 CPC was filed by the defendant after

closure of plaintiff's evidence and before commencement of his evidence. While deciding the application the Commercial Court has considered the issue as to whether there was any reasonable cause for the defendant for not filing the additional documents at the time of filing written statement. It is observed that in the 'statement of truth' the defendant has stated that all the documents available with him has been filed, therefore, the subsequent explanation that the document could not be traced due to dearth of official staff and the record having been kept in huge godown is not acceptable.

3. Reasonable cause for the issue like the present one is not to be read like statute nor can be defined in straight jacket formula. What is reasonable cause would depend on situation of each case including the facts of the matter in hand. The petitioner is a public sector undertaking, therefore, it is improbable that it would manufacture documents to win particular adjudication. It is defending an action filed by the plaintiff seeking damages, therefore, while raising such defence, if the defendant desires to introduce some documents, ends of justice would serve if the defendant is allowed to introduce and rely on the document so that the trial Court itself is not handicapped in adjudicating the dispute and one or other party does not

suffer for non availability of entire material before it.

4. For the foregoing, the impugned order deserves to be and is hereby set aside. Defendant's application under Order 11 Rule1(10) read with Section 151 CPC is allowed. Since plaintiff's evidence has already been closed, if he so desires, Commercial Court shall allow him to submit additional evidence after closure of the defendant's evidence.

Sd/-
(Prashant Kumar Mishra)
Judge

Ankit