

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

SUIT NO. 7150 OF 1999

Dr.Siddharth Ambaji Patil
Vs.
The University of Mumbai
& Ors.

.. Plaintiff

.. Defendants

**WITH
CHOL NO. 755 OF 2000
WITH
NOTICE OF MOTION NO. 854 OF 2018
IN
SUIT NO. 7150 OF 1999**

Ms.Nirali Sanghavi a/w. Ms. Chaitrika Patki i/b Anand and Anand and Khimani for plaintiff.

Ms.Rimi Jain i/b Rui A. Rodrigues for defendant Nos.1 and 5.

Mr.Chetan Mali i/b Yogita Singh for defendant Nos. 3 and 4.

Mr.Amol Joshi a/w. Adv. Sufiyan Shaikh i/b Poorvi Kamani for defendant Nos.8 and 9.

Mr.Himanshu Takke, AGP for State.

**CORAM : N.J. JAMADAR, J.
DATE : 18TH NOVEMBER 2019**

P.C.

NOTICE OF MOTION NO. 854 OF 2018

1. Heard the learned counsels for the parties.
2. By this notice of motion, the applicant/defendant No.1 seeks to recall the order dated 22nd September 2017 to the extent it records that the defendant No.1 will not be allowed to rely on the documents of which inspection was not tendered in conformity with the order dated 2nd April

2016 on or before 11th April 2016.

3. The applicant/defendant No.1 avers that inspection of documents, in adherence to the directions dated 2nd April 2016 was, in fact, given to the learned counsel for the plaintiff and the said fact was acknowledged by the learned counsel for the plaintiff by the endorsement on the letter dated 9th April 2016 (Exh.A) and a communication, dated 22nd April 2016 (Exh.'C') annexed to the notice of motion. However, on account of the unavailability of the advocate for the defendant No.1 before the Court on 22nd September 2017, the said fact could not be brought to the notice of the Court and an incorrect statement was made that inspection was not offered. An endorsement on the letter dated 9th April 2016, whereby the inspection was offered to the effect that the inspection was taken from 5:30 p.m. to 6:05 p.m. on 11th April 2016 and a communication emanating from the plaintiff's counsel dated 22nd April 2016 explicitly records that inspection of four documents was given.

4. In the aforesaid circumstances, the order dated 22nd September 2017, which has the effect of depriving the defendant No.1 from placing reliance upon those documents, deserves to be recalled as the defendant No.1 did comply with the order dated 2nd April 2016.

5. The notice of motion, therefore, made absolute in terms of prayer clauses (a) and (b). The order, dated 22nd September 2017 to the

extent it provides that the defendant No.1 need not be allowed to rely upon the documents stands set aside.

6. The notice of motion accordingly stands disposed of.

7. List the suit on 9th December 2019.

All the defendants to file statements of admission and denial of the documents, by the said date.

[N.J. JAMADAR, J.]