

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.7067/2017

Nexus Minment Merchandising Pvt. Ltd. and another

..Vs..

B.S. Ispat Limited and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri B.N. Mohta, Advocate for the petitioners.
Shri Masood Shareef, Advocate for respondent No.1.

CORAM : Z.A. HAQ, J.

DATED : 21.8.2019.

Heard.

2] By the impugned order, trial Court has allowed the application (Exh. No.25) filed by the plaintiff seeking permission to adduce secondary evidence in respect of the document No.17 of the list at Exh. No.28. According to learned Advocate for the respondent / plaintiff, this document is true copy of the resolution of Board of Directors of the plaintiff No.1 Company authorizing Shri Sunil Jamankar - Deputy General Manager (FA) to file the suit on behalf of the plaintiff No.1 Company. Undisputedly, the original is seized by the Central Bureau of Investigation in connection with investigation relating to coal scam. In these facts, learned trial Judge has permitted the plaintiff to adduce secondary evidence on that particular document.

3] Learned Advocate for the petitioners / defendants has submitted that the impugned order is passed by the learned trial Judge reeling under the wrong impression that the civil Court cannot issue directions to Central Bureau of Investigation to produce the documents and because of this misconception, plaintiffs are permitted to adduce secondary evidence. Though the submission made on behalf of the petitioners / defendants on this point is correct and the Court is not incompetent to issue directions to Central Bureau of Investigation to produce documents, considering the facts of the case, it cannot be said that the order passed by the trial Court permitting the plaintiff to adduce secondary evidence on the document as referred in the impugned order requires any interference by this Court. Hence, the writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE