



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 2ND DAY OF JANUARY 2020

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

A.Nos.9743 and 9744 of 2019

in

C.S. No.491 of 2015

(*)M/s.Devendra Autocom Private Limited,

No.35/B/2, Second Main Road,

Industrial Estate,

Ambattur, Chennai 600 058

Rep. by its Executive Director

..Plaintiff

-Versus-

M/s.Traverse Infotech Solutions Ltd.,

No.24/10, Western Apartments,

Welcome Colony,

Anna Nagar West

Chennai 600 101.

..Defendant

**(*) Amended as per order dated 16.09.2019
in Appl.No.6710 of 2019)**

A.Nos.9743 and 9744 of 2019:

M/s.Traverse Infotech Solutions Ltd.,

No.24/10, Western Apartments,

Welcome Colony,

Anna Nagar West

Chennai 600 101.

..Applicant/Defendant

-Versus-

M/s.Devendra Autocom Private Limited,

No.35/B/2, Second Main Road,

Industrial Estate,

Ambattur, Chennai 600 058

Rep. by its Executive Director ..Respondent/Plaintiff

A.No.9743 of 2019:

Application praying that this Hon'ble Court be pleased

<https://hcservices.ecourts.gov.in/hcservices/>

to recall DW1 for Cross examination in C.S.No.491 of 2015

pending before this Ho'ble Court.



A.No.9744 of 2019:

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Application praying that this Hon'ble Court be pleased to reopen the Defendant's side witness DW1 which was closed on 26.11.2019 in C.S.No.491 of 2015 pending before this Hon'ble Court.

These Applications coming on this day before this Court for hearing, the Court made the following order:

These applications for re-open and recall of DW.1 are filed after the completion of recording evidence and when the matter is listed for arguments, this applicant earlier has taken out an application to issue subpoena for one Mr.Nirmal Kumar, former Managing Director of the plaintiff's company. The said application was allowed by this Court by consent with the plaintiff. However the defendant has not paid batta for the witness and when the matter was listed before the Master on 22.11.2019, no witness was present on behalf of the defendant. Hence, the Master has recorded the said fact and posted the matter before the regular Court.

2. The case was listed for hearing on 26.11.2019 before this Court and this Court has recorded the proceedings as below:

" No representation for the defendant.

2.This Court by its order dated 08.11.2019, directed to issue subpoena to one of the witness to appear before the learned Additional Master II on 22.11.2019 for giving evidence and also directed to complete chief and cross examination



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of the witness on the same day. However, it appears that till now no steps have been taken even to file batta memo. The same clearly indicate that the defendant is not interested in concluding the trial and rather interested only in delaying the process. Hence, the evidence of the defendant is closed."

3. On 04.12.2019 when the case was called, the learned counsel for the plaintiff sought time to file written arguments and same was granted. Accordingly, the plaintiff has filed written submissions on 19.12.2019. Meanwhile the defendant has taken out the present application to re-open and recall DW.1. The application is stoutly opposed by the plaintiff that though enough opportunity was given to the defendant, the defendant has not paid batta hence his side evidence was closed. After recording evidence, the matter is listed for arguments, the present applications are filed only to drag on the proceedings.

4. The prior proceedings in this case indicate that though opportunity was given to the defendant to examine the witness of his choice, the defendant has not taken necessary steps to examine the witnesses. After the matter has been listed for arguments and the plaintiff has submitted his written arguments, the defendant seeks indulgence of this Court to examine one Mr.Nirmal Kumar for whom he has not paid batta when opportunity is given.



application. Therefore, these applications are dismissed.

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5. The defendant is permitted to file his written arguments on or before 09.01.2020. Call the matter for oral submissions on 21.01.2020.

Sd./-G.J.J
02/01/2020

//Certified to be true copy//
Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

jj 08/01/2020

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.