

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.7155 OF 2019

Cosmo Films Ltd. = PETITIONER

VERSUS

Parenteral Drugs (India) Ltd. = RESPONDENT/S

Mr.Ajit D.Kasliwal, Advocate for Petitioner;

Mr.BG Lathe, Advocate for Respondent.

CORAM : SMT. BHARATI H.DANGRE,J.

DATE : 25th January, 2022.

PER COURT :-

1. Heard learned Counsel for the petitioner and learned Counsel for the respondents.

The petitioner is aggrieved by the order passed by 2nd Joint Civil Judge, Senior Division, Vaijapur on 20.4.2019 in Special Civil Suit No.27/2017, where he permitted exhibiting of certain documents to which an objection was raised by the plaintiff to the effect that these documents do not find mention in the evidence affidavit filed by the defendant.

2. On 10.7.2019, this Court by a detailed order clearly ruled on the position of law to the

(2)

effect that it is settled position of law that the document once exhibited in the proceeding cannot be de-exhibited and that merely granting exhibit number to a document would not mean that the contents of the documents are proved and it will ultimately depend upon the litigant as how he got those documents exhibited converted into admissible evidence.

Based on the said principle of law, this Court rejected the objection of the petitioner qua Exhibits-8, 29,30 and 31. Notice was issued restricted to Exhibit-32.

3. As far as Exhibit-32 is concerned, it is a copy of mail dated 13.5.2016, which has been marked at Exhibit-32.

When the reasoning of the learned Judge in allowing the document to be exhibited is perused, he has recorded that the evidence affidavit of the defendant clearly makes a reference to an assertion which is contained in Para 5 to the following effect, -

"5. The material supplied by the plaintiff company to the defendant company was of very poor quality: in the material supplied by the plaintiff

(3)

company there were lots of issues concerning the quality about which the plaintiff company was informed by the defendant company on several occasions telephonically as well as through mails however, no corrective measures were taken by the plaintiff company and under the circumstances, the material supplied by the plaintiff company was of no use to the defendant company. Needless to mention that the material required by the defendant company from the plaintiff company was for manufacturing pharmaceutical products which requires precision of quality failing which the raw material is unfit for utilization."

Thus, there is a reference to exchange of mail by the plaintiff-company to the defendant-company and recording the said statement contained in the evidence affidavit, though date of the mail is not mentioned, a copy of the e-mail produced on record dated 13.5.2016 has been permitted to be exhibited at Exhibit-32.

4. Since the position of law is that mere exhibiting the document does not prove its contents and if at all the submission of the learned Counsel to the effect that the document, since it is an e-mail, must require to be proved would be admissible in evidence only when supported with a certificate issued under Section 65-B of the

(4)

Evidence Act, he is at liberty to raise the objection while reading the said e-mail in evidence by the other side.

5. Clarifying the aforesaid position, there is no merit in the writ petition. Resultantly, by upholding the impugned order, the writ petition is dismissed.

(SMT. BHARATI H.DANGRE,J.)

BDV