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A.Nos.44 & 486 of 2022
&
C.S.(Comm. Suits.) No.334 of 2016

SENTHILKUMAR RAMAMOORTHY, J

These two applications are filed to : (i) reopen the evidence of the defendants and permit the fourth defendant to lead evidence (A.No.44 of 2022); and (ii) grant leave to file the invoices and documents listed in the schedule to the Judges summons (A.No.486 of 2022).

2. Learned counsel for the fourth defendant submits that the plaintiffs' evidence was concluded in September 2021. Thereafter, the evidence of the defendant was closed since the time schedule fixed earlier in such regard had expired. With regard to A.No.486 of 2022, he submits that the documents sought to be exhibited in terms thereof were sought to be marked in the course of cross-examination of PW1. Since the witness was unable to identify the said documents, such documents could not be marked. It is submitted that it become necessary to file the present application for such reason.



WEB COURT

3. Learned counsel for the plaintiff opposes these applications on the ground that these documents were in the possession or power of the fourth defendant and should have been filed along with the written statement. According to the plaintiff, the fourth defendant has not established reasonable cause to produce these documents at this juncture.

4. Upon considering the above submissions and on examining the affidavit in support of A. No.44 of 2022, I find that the applicant has established reasonable cause for reasons set out in paragraphs 3 to 7 of the affidavit in support of the application. Accordingly, A.No.44 of 2022 is allowed and the evidence of the fourth defendant is re-opened subject to the directions set out herein.

5. As regards A.No.486 of 2022, the applicant has set out the reasons for filing the said application in paragraphs 3 and 4 of the affidavit in support of such application and being satisfied that reasonable cause is shown, the said application is allowed subject to the directions set out herein.



6. Accordingly, both these applications are allowed by issuing the following directions:

(i) The plaintiff is permitted to file an affidavit of admission/denial in respect of the additional documents permitted to be filed on behalf of the fourth defendant.

(ii) The documents permitted to be filed are subject to relevance and proof.

(iii) The applicant/fourth defendant shall file the proof affidavit on or before 25.02.2022.

(iv) List the matter before the learned Additional Master II on 28.02.2022 for the examination of DW1. The evidence of DW1 shall be concluded on or before 03.03.2022.

List before this court on 08.03.2022.

18.02.2022

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