



A.No.125 of 2022

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A.No.125 of 2022
in
C.S.No.280 of 2019
(Comm.Suit)

N.ANAND VENKATESH. J.,

This application has been filed by the 9th defendant seeking leave of this Court to bring in 8 documents to substantiate the defense taken by the 9th defendant.

2. The present suit was filed as against 9 defendants and except the 9th defendant, all the other defendants chose not to contest this suit and they have all been set ex-parte. The suit was at the stage of trial and the evidence on the side of the plaintiff was over. The 9th defendant has to put the witness in the box and at that stage, the present application came to be filed before this Court.

3. The 1st respondent/plaintiff has filed a counter affidavit. This application is opposed by the plaintiff on the ground that the documents that are sought to be relied upon by the applicant pertains to the period from 1989 to 2003 and all these are pre-suit documents which were not filed at



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the time of filing the written statement of the 9th defendant. A further stand has been taken to the effect that there is an exorbitant delay in filing the documents and the delay has not been properly explained and hence, the present application is liable to be rejected.

4. Heard Mr.AN.Raajamani Ponnuru, the learned counsel for the applicant and Ms.Archana of M/s.Waraon and Sairams law firm for the 1st respondent.

5. The present suit is contested only by the 9th defendant and all the other defendants have been set ex-parte. The 9th defendant filed a written statement on 27.09.2019. Even while filing the written statement, the list of documents relied upon by the 9th defendant have been specified in the written statement. However, it seems that these documents were not filed along with the written statement. The suit was at the stage of trial and the examination of the witness on the side of the plaintiff is over. As per the case management order, the 9th defendant is going to examine one witness on their side. Since, the time lines fixed by this Court expired, the matter was sent back to the Court. It is at this juncture, the present application was filed



by the 9th defendant.

6. The main reason that has been given by the applicant for not having filed the documents was that these documents are the link documents through which the producers of the suit schedule films had assigned the right to the predecessors of the 9th defendant. According to the applicant, the other defendants were supposed to file all these documents and defend the case but unfortunately, they had chosen to remain ex-parte. The applicant has specifically pleaded that it took some time to collect all these documents and to collate the same and that is the reason why these documents were not able to be filed along with the written statement.

7. It is true that all these documents pertain to the year 1989 to 2003 and are pre-suit documents. It must be borne in mind that delay by itself will not be a ground to reject the application for filing the documents and what is necessary is to see if the delay has been properly explained. The documents that are sought to be relied upon by the applicant become very crucial for the applicant to establish their defense. These are the source documents through which the applicant is claiming their right. The applicant is forced



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to collate all the documents and file the same, since the other defendants have chosen to remain ex-parte.

8. The 1st respondent/plaintiff will not be put to any prejudice even if this application is allowed since the witness will be subjected to cross-examination and the documents that are sought to be relied upon can also be examined at the time of evidence. If the applicant is not allowed to bring in the documents, they will be put to grave prejudice and they will not be able to substantiate their defense.

9. In view of the above discussion, this Court is inclined to allow this application. Out of the 8 documents, the applicant is having the original documents with respect to document Nos.1, 3, 4, 5, 6 and 7. Insofar as document Nos 2 and 8 are concerned, the applicant wants to let in secondary evidence since these documents have been misplaced and they were not able to trace the documents inspite of their best efforts. The applicant has also undertaken to produce the originals of these documents also as to when it is traced. In view of the same, all the 8 documents can be permitted to be marked subject to relevancy, proof and admissibility.



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10. This application accordingly stands allowed. However, considering the delay in filing the documents, this Court is inclined to impose cost on the applicant. The applicant is directed to pay cost of sum of Rs.5,000/- (Rupees Five Thousand Only) to the plaintiff on or before 02.02.2022.

19.01.2022
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