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A.Nos.572 of 2022, 3421 of 2021

A.Nos.572 of 2022, 3421 of 2021
in C.S.(Comm.Suits) No.480 of 2013

SENTHILKUMAR RAMAMOORTHY,J

This application is filed by the second defendant in the suit for permission to rely upon 21 documents which are listed in paragraph 6 of the application. The suit was filed in the year 2013. The second defendant filed its written statement on 07.01.2017. Issues were framed on 18.10.2019 and the case management schedule was fixed on 13.03.2020. The present application was filed in February 2022 just prior to the examination of P.W.1.

2. As justification for the belated filing of this application, the applicant / second defendant states that the written statement was prepared and filed in a hurry on account of the expiry of the dead line fixed in such regard. It is also stated that some documents were mentioned in the written statement but were inadvertently not annexed thereto. The applicant asserts that he is ready and willing to extend full cooperation to conclude the trial expeditiously. It is also stated that



A.Nos.572 of 2022, 3421 of 2021

irreparable loss would be caused to the applicant / second defendant since the documents sought to be produced are vital to the defence.

3. The plaintiff opposes this application on the ground that it is belated and not bona fide. The plaintiff further submits that none of these documents were put to P.W.1 in course of cross examination. At a minimum, the plaintiff states that the applicant / second defendant should be put on terms and that the plaintiff should be permitted to raise objections in respect of these documents.

4. Under the amended CPC as applicable to commercial disputes, the belated production of documents cannot be countenanced unless the applicant establishes reasonable cause. There is little doubt that the applicant has filed documents in his possession and power belatedly and thereby caused delay to the expeditious disposal of the suit. At the same time, it should be recognized that these documents are stated to be vital to the defence. In the circumstances, the application is allowed subject to the applicant paying costs of Rs.30,000/- (Rupees Thirty Thousand only) to the plaintiff within **two weeks** from the date of receipt of a copy of this order. The plaintiff is permitted to file a statement of



A.Nos.572 of 2022, 3421 of 2021

admission / denial in respect of these documents. The plaintiff is also permitted to raise objections *inter alia* on grounds of relevance and proof.

The second defendant states that the witness would be available for examination from 18.04.2022. The second defendant is directed to serve an unsigned copy of the proof affidavit on the plaintiff on or before 13.04.2022. The examination in chief shall be conducted on 19.04.2022. The cross examination shall be completed between 19.04.2022 and 25.04.2022.

5. List the matter before the learned Additional Master No.II on 19.04.2022.

6. List the matter before this Court on 27.04.2022.

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