



A.No.1305 of 2022

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in C.S.(Comm.Suits) No.23 of 2015

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SENTHILKUMAR RAMAMOORTHY,J

This application is filed to permit the first defendant to bring on record the documents marked as schedule-A to the Judge's summons.

2. The suit was filed in the year 2015 seeking orders of injunction in respect of alleged infringement and passing off, surrender of infringing material for destruction and for rendition of accounts. The parties commenced the trial process in the year 2020. P.W.1 was examined in chief and cross examined. The present application is filed at this juncture.

3. The first defendant states that these documents are relevant to its defence and that the documents were produced in the interlocutory application. The first defendant also states that these documents were filed in a typed set while filing the written statement but the applicant / first defendant was shocked to discover in course of trial that the documents are not on record.



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4. Since the plaintiff's witness was examined prior to the present application being filed, there is little doubt that the plaintiff would be prejudiced by the production of these documents at this juncture. Even otherwise, one of the primary objects of the Commercial Courts Act, 2015 is to conclude the hearing of suits expeditiously. The reasons set out in the affidavit of the first defendant for the production of these documents at this juncture are not convincing. Nonetheless, it appears that the non production of these documents would cause great prejudice to the applicant / first defendant. Therefore, subject to putting the applicant / first defendant on terms, the present application is allowed.

5. The applicant is permitted to produce these documents subject to the objections of the plaintiff *inter alia* on grounds of relevance and proof. The applicant shall pay costs of Rs.50,000/- (Rupees Fifty Thousand only) to the Cancer Institute, Adyar within a period of **two weeks** from the date of receipt of this order. The plaintiff is permitted to file a memo of admission / denial in respect of these documents.



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6. List the matter before the learned Additional Master No.I on 01.04.2022 for recording evidence. The evidence shall be recorded between 01.04.2022 and 06.04.2022.

7. List the matter before this Court on 13.04.2022 for filing written arguments and convenience typed sets.

23.03.2022

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