



A.Nos.1575 & 1577 of 2022 in
C.S. No.676 of 2017

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SENTHILKUMAR RAMAMOORTHY, J

These applications are filed to reopen the evidence of the plaintiff in A.No.1577 of 2022 and to receive the documents described in the schedule to the judge's summons in A.No.1575 of 2022.

2. Evidence was recorded in full and parties had also filed written arguments. The sole defendant had forfeited the right to file a written statement but had cross-examined PW1 and filed written arguments. According to the applicant, in the written arguments, the defendant had raised the objection that the suit was not properly instituted because the authorized signatory, Mr.S.Mahadevan, was not duly authorized by the Board of Directors of the plaintiff. The applicant submits that the present applications were necessitated by this objection.

3. The respondent/defendant opposes the applications by pointing out that these documents were in the power, possession, custody and control of the applicant/plaintiff at the time of institution of the suit. Besides, the respondent points out that several questions relating to the lack of proper authorization were put to PW1 in course of cross-examination. Reference is made to questions 7 to 10 and the answers thereto.



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4. The suit was filed for recovery of a sum about Rs.1.23 crore. As stated above, the suit was at the stage of oral arguments, when the present applications were filed. The respondent/defendant pointed out that these objections were raised in course of cross-examination. The said objection is not devoid of merit. At the same time, while deciding whether reasonable cause has been established, the overall circumstances should be taken into consideration. Unless the applicant is permitted to reopen evidence for purposes of bringing these documents on record, great prejudice would be caused to the applicant/plaintiff. The cross-examination took place in October 2021, when the respondent raised these objections. Therefore, the applicant could have produced these documents at least at that juncture. To that extent, the applicant is guilty of delay in the final disposal of the suit. Consequently, the applicant should be put on terms. Towards such end, the applicant is directed to pay costs of Rs.25,000/- to the respondent/defendant within a period of two weeks from the date of receipt of a copy of this order. Subject to payment of costs, these applications are allowed.

5. As a corollary, the evidence of the plaintiff is reopened and the applicant is permitted to examine Mr.M.Sathishwaran as PW2. The respondent/defendant is permitted to file the statement of admission/denial in respect of these documents and the production of these documents is, needless



to say, subject to the objections of the respondent/defendant *inter alia* on grounds of admissibility, relevance and proof.

List on 08.06 .2022 for compliance and issuance of further directions.

21.04.2022

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