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A.No.2135 of 2022

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in C.S.No.289 of 2020

SENTHILKUMAR RAMAMOORTHY, J.

This application is presented by the third defendant for permission to produce additional documents. The suit was at the stage of final arguments. At that juncture, an application to condone delay was presented. Pursuant to order dated 25.03.2022, the matter was listed before the learned Additional Master No.II for recording the evidence of the third defendant. The evidence of the third defendant could not be recorded as per schedule on account of objections raised by learned counsel for the plaintiff to the exhibition of secondary evidence. By this application, the defendants seek to produce cover letters issued by the first defendant to the third defendant. According to the applicant / third defendant, the enclosures to the cover letters are already on record and that these documents are material for purposes of the suit. Learned counsel for the third defendant states that the witness for the third defendant (D.W.2) would be available for examination in the week beginning 11th of July 2022.

2. Learned counsel for the plaintiff opposes this application on the ground that the third defendant has delayed the prosecution of the suit by at least six months by filing multiple applications. He also draws the attention of



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this Court to the condition imposed in the order on 25.03.2022.

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3. Upon taking into consideration the nature of documents proposed to be filed and the availability of the witness, this application is allowed on the following terms:

(i) D.W.2 shall be available for examination between 11.07.2022 and 15.07.2022.

(ii) The third defendant shall file an affidavit explaining the reason for producing secondary evidence. Subject to the objections of the plaintiff being recorded, such secondary evidence may be received.

(iii) The plaintiff is permitted to file an affidavit of admission / denial in respect of these documents and also raise objections in course of trial *inter alia* on admissibility, relevance and proof.

(iv) The third defendant shall pay costs of Rs.20,000/- (Rupees Twenty Thousand only) to the plaintiff within a period of **two weeks** from the date of receipt of a copy of this order.



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4. The evidence of D.W.2 shall be recorded in full on or before
15.07.2022.

5. List the matter before this Court on 29.07.2022 for filing of written
arguments and convenience typed sets.

05.07.2022

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