



WEB COPY



A.Nos.2152, 2153 & 2154 of 2022

in

C.S.No.750 of 2018

SENTHILKUMAR RAMAMOORTHY, J

These three applications are presented by the plaintiff to re-open the plaintiff's evidence, recall PW1 and permit the plaintiff to exhibit additional documents.

2. The suit is at the trial stage and the evidence of PW1 was closed previously. Learned counsel for the applicant/plaintiff submits that the additional documents proposed to be exhibited are legal user certificates issued by the Trade Mark Registry after the institution of the suit, Chartered Accountant's certificates indicating the sales turnover and promotional expenses of the plaintiff, and product packaging. As regards the legal user certificates, it is stated that these documents were received by the plaintiff after the institution of the suit. Since they were received shortly before the COVID 19 pandemic, there was delay in filing an appropriate application to bring the same on record. As regards the Chartered Accountant's certificates, it is stated that the same were filed in C.S.No.748 of 2018 and that steps had to be taken for return of the said documents before filing the same before



this Court. As regards the third document, it is stated that it is the product packaging and that no prejudice would be caused if the same is permitted to be exhibited.

3. Learned counsel for the defendant opposes these applications. By referring to the affidavit in support thereof, learned counsel contends that the particulars of the suit in which the documents were filed have not been provided. In addition, it is contended that these applications have been filed belatedly and would protract the suit.

4. The legal user certificates are subsequent to the institution of the suit and could not have been filed at any time before mid-December 2019. As regards the Chartered Accountant's certificates, the applicant/plaintiff has produced evidence that the said documents were filed in C.S.No.748 of 2018. In fact, this reason is also provided in respect of the legal user certificates. As such, subject to conditions, the applicant has established reasonable cause.



WEB COPY

5. Accordingly, these applications are allowed on the following terms:

(i) The applicant shall ensure that PW1 is available for examination in the week beginning 18th July 2022.

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

(iii) The parties are directed to agree upon and submit a common proposed case management schedule on the next date of hearing.

List on 13.07.2022.

06.07.2022

kal



WEB COPY



SENTHILKUMAR RAMAMOORTHY, J

kal

A.Nos.2152, 2153 & 2154 of 2022

in

C.S.No.750 of 2018

06.07.2022