



A.Nos.2498, 2499, 2500 of 2022

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in C.S.No.183 of 2020

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SENTHILKUMAR RAMAMOORTHY, J.

The suit was listed for final arguments on 23.06.2022. On the said date, learned counsel for the plaintiff in C.S.No.183 of 2020 concluded his arguments. The suit was posted on 28.06.2022 for the arguments of learned counsel for the defendant in the said suit. On 28.06.2022, learned counsel for the plaintiff in C.S.No.183 of 2020 requested for an adjournment for the purpose of filing applications to re-open the evidence of P.W.1, recall P.W.1 and exhibit additional documents.

2. In support of these applications, learned counsel for the applicant / plaintiff submits that these documents were not filed along with the plaint because the applicant was relying on promissory notes, cheques and a letter of confirmation, which were exhibited as Exs.P14 to P21. However, it is stated that the production of these documents has become necessary in view of questions put in course of cross examination and questions raised by the Court. It is further stated that these documents are vital and establish the financial capability of the applicant / plaintiff at the relevant point of time.



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3. These applications are opposed strongly by learned counsel for the respondent / defendant. Learned counsel contends that P.W.1 in C.S.No.183 of 2020 was cross examined in respect of financial capability. With specific reference to question 20, 21 and 38 and the answers thereto, it is submitted that the plaintiff should have sought permission to file these documents at least upon the said questions being put to P.W.1. Learned counsel for the respondent further states that the applicant has not established reasonable cause in terms of Order 11 Rule 1(4) of the CPC as applicable to commercial disputes.

4. Given the fact that the arguments of learned counsel for the plaintiff in C.S.No.183 of 2020 were concluded on 23.06.2022, this application is undoubtedly belated. As correctly pointed out by learned counsel for the respondent, at least three questions were put to P.W.1 with regard to the financial capability of the plaintiff. Therefore, the plaintiff had an opportunity to file this application earlier. At the same time, it should be recognized that this is a Court of first instance and parties should be provided some latitude with regard to production of documents. The suit is of the year 2020. Learned counsel for the applicant submits that the proof affidavit would be served on 05.07.2022 and that the examination can be concluded prior to 08.07.2022.



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5. In the circumstances, subject to terms, these applications are allowed by issuing the following directions:

(i) the applicant shall pay costs of Rs.15,000/- (Rupees Fifteen Thousand only) to the respondent and a further sum of Rs.15,000/- (Rupees Fifteen Thousand only) to the Madras High Court Arbitration Centre. These amounts shall be paid within a period of **two weeks** from the date of receipt of a copy of this order.

(ii) the applicant shall serve the additional proof affidavit of P.W.1 in C.S.No.183 of 2020 on learned counsel for the defendant on or before 05.07.2022. The examination of P.W.1 should be concluded on or before 08.07.2022.

6. List the matter before the learned Additional Master No.III on 05.07.2022 for recording evidence as per the above schedule.

7. List the matter before this Court on 14.07.2022 at 2.15 P.M. for continuation of oral arguments.

01.07.2022

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