



A.No.3397 of 2022
in C.S.No.565 of 2012 (Comm Suits)

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M.SUNDAR.J.,

This order will now dispose of the captioned application.

2. In this order, parties to the captioned application shall be referred to by their respective ranks in the main suit for the sake of convenience and clarity.

3. Mr.Om Prakash, learned Senior counsel instructed by counsel on record for sole plaintiff and Mr.M.B.Raghavan of M/s.M.B.Gopalan Associates (Law Firm) for Defendants 1 and 2 (Insurance Company) and Mr.S.R.Sundar, learned counsel for third defendant-company (to be noted, third defendant-company has gone into liquidation and OL has now stepped into the shoes qua the third defendant-company) are before this Commercial Division.

4. Captioned application is simple and innocuous i.e., an application taken out by the plaintiff with a prayer to grant leave to the plaintiff to file 44 documents (Plaint Document Nos.171 to 214). To be noted, already 170 documents have been filed along with the plaint. Captioned application has been filed under Order VII Rule 14 (3) of 'The



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Code of Civil Procedure, 1908' ['CPC' for the sake of brevity]. This is clearly incorrect as Order VII Rule 14 has been made inapplicable to suits and applications before Commercial Division and Commercial Courts. This is owing to Rule 7 of Order XI of CPC as amended by 'The Commercial Courts Act, 2015 (Act 4 of 2016)', which shall hereinafter be referred to as 'CCA' for the sake of convenience. If Order VII Rule 14 is inapplicable in its entirety, obviously none of the sub-rules in Rule 14 will also be inapplicable. Registry to take note of this aspect of the matter and ensure that the correct provision is mentioned.

5. Learned counsel for plaintiff faced with the above situation requests this Commercial Division to consider the captioned application as one under Order XI Rule 1 sub-rule (5) of amended CPC. This request is acceded to.

6. Adverting to the support affidavit, learned Senior counsel submits that 44 documents which now need to be received had been seized by 'Central Bureau of Investigation' ['CBI' for the sake of brevity] and therefore, the same could not be filed along with the plaint. Learned counsel for defendants submits that the reason for leave apart, if this Court is inclined to accede to the request, the documents should be



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subject to proof and relevance. There is no difficulty in accepting this simple caveat being put in.

7. Accepting the reason, leave is granted saying that the plaintiff has shown reasonable cause for not filing the 44 documents along with the plaint. Receiving of these 44 documents is subject to proof and relevance.

Application ordered in aforesaid manner with aforementioned rider (subject to proof and relevance). There shall be no order as to costs.

26.10.2022

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