



A.Nos.3363, 3366, 3368 of 2022

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in C.S.No.46 of 2021

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SENTHILKUMAR RAMAMOORTHY, J.

These applications are presented by the fourth defendant seeking to re-open the evidence of the defendants, re-call D.W.1 and exhibit additional documents.

2. The suit is at the stage of arguments. The plaintiff has filed a counter opposing these applications both on the ground of delay and on the ground that the mortgage of the property was only in respect of the land and not the superstructure.

3. Without doubt, these applications are belated. Learned counsel for the applicant / fourth defendant states that the exhibition of these documents is necessitated by the questions put in course of the cross examination of D.W.1. As regards the objection that the mortgage is only in respect of the land and not the superstructure, learned counsel states that the mortgage deed would also be exhibited.

4. In spite of the delay, by taking into account the fact that some latitude should be provided to parties to adduce evidence in a Court of first instance, these applications are allowed on the following terms:

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



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(ii) D.W.1 shall be available for examination from 22.08.2022 and the examination of D.W.1 shall be completed in full on or before 26.08.2022.

(iii) D.W.1 is permitted to exhibit the mortgage deed dated 19.04.2012, the certified copy of which has been taken on record.

5. List the matter before the learned Additional Master No.II on 22.08.2022 for recording evidence as per the above schedule.

6. List the matter before this Court on 16.09.2022 for filing written arguments and convenience typed sets.

17.08.2022

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