



A.No.4918 of 2022

WEB COPY

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in

C.S.No.867 of 2017

G.CHANDRASEKHARAN,J.

Application No.4918 of 2022 is filed for seeking permission of marking the photographs described in the Schedule and admitted by PW1. It is submitted by the Learned Counsel for the Applicants that the Suit pertains to claim for alleged damage of stocks of Plaintiff due to Vardha Cyclone. There was a survey by statutory surveyor M/s.A.S.N.Arya. During the survey, photographs were taken by the Surveyor and Plaintiff. The photographs are material evidence. PW1, while letting evidence was shown the photographs and he admitted the same. However, photographs were not permitted to be marked on the ground that negatives were not filed.

2.The Learned Counsel for the Respondent/Plaintiff opposed this Application stating that negatives were not filed and that photographs cannot be marked through cross examination. The Learned Counsel for the Second Respondent has no objection for allowing this Application. The Learned Counsel for the First Respondent has also sought time for filing counter.

3.Considered the rival submissions and perused the records.



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4.Considering the limited scope of this Application that the said photographs taken with regard to the damage caused to the stocks of the Plaintiff through Vardha Cyclone are sought to be marked through the cross examination of PW1. It is submitted by the Learned Counsel for the Applicants that PW1 admitted the photographs. This stand is not seriously disputed by the Learned Counsel for the First Respondent. In such circumstances, this Court is of the considered view that these photographs are necessary and to be received in evidence. Therefore, this Application is allowed. However, it is open to the Applicants to examine the concerned photographer / surveyor if the case warrants the proof of the photographs taken. Registry is directed to send this matter to the concerned Master's Court.

10.11.2022
(1/2)

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**Dated:10.11.2022
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