

Jose

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.22 OF 2020

SHANTADURGA TRANSPORT CO.
PVT. LTD., REP. BY ITS MAN. DIR.,
SHARAD M. KESHKAMAT ... Petitioner.

Versus

DAIMLER INDIA COMMERCIAL
VEHICLES AND ANR. ... Respondents.

Mr Ashwin D. Bhobe with Ms Annelise Fernandes, Advocates for
the Petitioner.

Mr C.A. Coutinho with Mr I. Santimano, Advocates for
Respondent No.1.

CORAM: BHARAT P. DESHPANDE, J.

DATED: 03 August, 2023

P.C:

Heard Mr Bhobe for the Petitioner and Mr Coutinho for the
Respondents.

2. The short point involved in the present petition is the rejection of
an application filed by the Plaintiff asking the Defendant No.1 to produce
certain documents, as mentioned in para No.3 of the application dated
06.01.2020.

3. Mr Bhobe would submit that Plaintiff filed two more applications for production of additional documents and by the impugned common order, all the applications were rejected.

4. Mr Coutinho has pointed out that the evidence of the Plaintiff is over and during cross examination, it has been brought on record that the documents which the Plaintiff is desirous of producing through Defendant No.1 are not in possession of Defendant No.1.

5. Be that as it may, learned Counsel Mr Bhobe would submit that the Plaintiff desires to file proper applications for the purpose of production of documents and seeking permission to produce documents through Defendant No.1 or through the third party as prescribed. He only submitted that the impugned order and the reasons disclosed therein need not be taken against the Plaintiff while deciding the applications which the Plaintiff wants to file.

6. Learned Counsel Mr Coutinho for the Respondents submits that such recourse would delay the matter further.

7. Considering the fact that Special Civil Suit No.12/2017 was filed before the matter was converted into a Commercial Suit and by that time the Plaintiff was already in the witness box and therefore, the procedure to be followed while filing the plaint, documents, etc. was not available with the Plaintiff since that stage was already crossed. Mr Coutinho then pointed out that the Commercial Court while converting the suit, directed the parties to comply with the provisions of the Commercial Courts Act as well as the amended provisions under the CPC.

8. Since the matter was converted at the stage when the Plaintiff was about to step into the witness box, the parties are entitled to file applications as provided under the CPC coupled with the fact of applying the provisions of Commercial Courts Act.

9. The present petition could be disposed of on the ground that the Plaintiff could be permitted to file fresh applications in accordance with law and the procedure of the Commercial Courts Act which could be decided by the Trial Court without getting influenced by the observations in the impugned order. However, the Plaintiff should not indulge himself in delaying the matter further.

10. In view of the above submissions, writ petition stands disposed of.

11. All contentions raised by the parties in the present petition as well as raised while arguing earlier applications are kept open.

BHARAT P. DESHPANDE, J.

JOSE
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DSOUZA

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