



A.No.1136 of 2023
in C.S.No.639 of 2019

WEB COPY **K. KUMARESH BABU, J.**

This application has been filed seeking to mark the xerox copies of the documents listed in the Judges Summons.

2.The case of the applicant is that the originals are with the respondent and the respondent have deliberately failed to produce the original documents. Therefore, he has taken this application to mark the xerox copies of the said documents.

3.Mr.B.Ullasavelan, learned counsel appearing on behalf of the applicant would submit that when this applicant had filed an Application No.1932 of 2022 to produce 11 documents, a counter has been filed by the respondent/plaintiff stating that such documents are not available with them at present as many of the documents in their office went missing during December 2015 floods. Since the respondent who is in possession of the original documents were not able to produce those documents, the applicant has filed this present application.



WEB COPY

4.Mr.M.Sriram, learned counsel appearing on behalf of the respondent/plaintiff would vehemently dispute the necessity to mark the xerox copies of the documents. He would submit that the suit is for specific performance of a contract and what the applicant now seeks to take on evidence is a document of Lease and Renewal of such Lease Agreement and that would not help the case of the applicant. However, when queried upon as regards to the possession of the original, Mr.M.Sriram, learned counsel would submit that even in the earlier application they had filed a counter that those documents were not available with them at present in view of the floods that affected in the City of Chennai in December 2015.

5.I have considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

6.It is an admitted fact that the original were available with the respondent/plaintiff. But, however, it is the case of the respondent/plaintiff that the documents went missing during floods. It is also an admitted fact that the documents which the applicant seeks to mark is the xerox copies of the Lease Deed and the Renewal of the Lease Deed. The said documents are



WEB COPY

sought to be marked to substantiate the claim of the applicant/defendant that there was a loan transaction between the applicant and the respondent. Based upon the said documents, he would submit that the applicant has not entered into a Sale Agreement with the plaintiff.

7.The said issue can be the subject matter of the suit and could be gone into and decided at the time of final hearing of the case. But, however, considering the claim of the applicant/defendant, the documents listed in the Judges Summons are permitted to be marked, subject to relevancy and proof.

8.With the aforesaid observation, the application is ordered.

05.04.2023

pam



WEB COPY



K. KUMARESH BABU, J.

pam

A.No.1136 of 2023
in C.S.No.639 of 2019

05.04.2023