



A.No.1931 of 2023 in CS.No.581 of 2015

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RESERVED ON : 19.08.2023

PRONOUNCED ON : 22.12.2023

A.A.NAKKIRAN, J.

ORDER

1. This application has been filed by the Plaintiffs to permit the applicant to receive the documents, described in the list of documents in the Judge's Summons, as additional evidence in CS.No.581 of 2015.
2. The said suit was filed, seeking a judgement and decree, directing the Respondents jointly and severally to pay the 1st Plaintiff a sum of Rs.1,50,00,000/- towards damages with interest at the rate of 9% per annum from the date of the plaint till the date of realization and directing the defendants jointly and severally to pay the 2nd Plaintiff a sum of Rs.1,50,00,000/- towards damages with interest at the rate of 9% per annum from the date of the plaint till the date of realization and for costs.
3. The case of the Applicants is that they have filed the suit for recovery of money towards damages with interest, as stated above and the Managing Director of the 1st Applicant Company was examined as PW.1. The application to summon the witnesses filed by them was allowed and summons were served upon two of the witnesses. At the time of appearance of the witnesses, the witness has produced the documents, which have been listed in the Judge's Summons and the said documents



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have to be received as additional documents and marked as Exhibits in the above suit, otherwise, great prejudiced would be caused to the Plaintiffs.

Hence, this application has been filed, seeking the relief as stated above.

4. In the counter affidavit filed by the 1st Respondent, it is stated as under:-

- a) The suit was filed damages based on a news article published in the Newspaper, "The Times of India" on 05.07.2014, which is alleged to be defamatory to the Plaintiffs. The 1st Defendant had nothing to do with said news article. A mere perusal of the said news article report would reveal that there has been no defamation whatsoever caused to the Plaintiffs by the 1st Defendant.
- b) The 1st Plaintiff had entered into a Dealership Agreement dated 10.04.2006 with the 1st Defendant for sale of the 1st Defendant's cars and related goods and services and it was terminated, by letter dated 20.06.2012 in accordance with the terms and conditions of the same, due to failure on the part of the Plaintiffs in rectifying various deficiencies pointed out in the show cause notice dated 09.02.2012 issued by the 1st Defendant. The same has become final and accepted and acted upon by both parties. The documents are being filed only to cover up the gaps in the cross examination. The documents sought to be filed are irrelevant documents to the dispute. The Applicants have failed to provide adequate reasons for marking of the exhibits as additional documents. Therefore, for the above stated reasons, this application is to be dismissed.



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5. In the additional affidavit filed by the Applicants, it is stated that the Managing Director of the 1st Applicant Company was examined as PW.1 A.No.4808 of 2022 to call the witnesses to adduce evidence was allowed on 08.11.2022. One of the witnesses on 15.03.2023 has filed his proof affidavit, as PW.2. At the time of filing his proof affidavit, he produced certain documents as listed hereunder, as supporting documents. Hence, they filed this application to receive the said documents as additional documents. After seeing the publications made by the Respondents, as against their Company, the said witness, who is their long standing customer, lost confidence and respect which he had with their company. The documents described in S.Nos.1 to 4 evidence the relationship between them as a dealer and customer and the documents produced as S.Nos.5 to 8 show that the witness had purchased vehicles sold by the applicants. The above mentioned documents have to be marked through PW.2 and unless the above documents are received by this Court and marked as Exhibits, the Applicants would be greatly prejudiced.
6. In the additional counter affidavit filed by the 1st Respondent, reiterating the averments made in the counter affidavit, it is further stated that the proposed additional documents to be filed by PW.2 are related to Susee Trucks and Susee Motors, which is a separate legal entity and not connected with the Applicants, who is operating in the name of Susee Cars Pvt Limited. The whole process of trial is only to challenge the witness and bring out the true facts of the case. The Plaintiff in order to pre-empt that cannot file documents



which are not relevant to the case. The averment that the relationship between Plaintiffs and PW.2 is that of a dealer and customer is false. The documents are third party documents which have no relevance to the present suit of defamation. Therefore, for the above stated reasons, this application is to be dismissed with costs.

7. The applicants contended that great prejudice would be caused to the applicants if relevant and important documents are not marked as Exhibits in the above suit, The documents in S.Nos.1 to 4 evidence the relationship between them as a dealer and customer and the documents produced as S.Nos.5 to 8 show that the witness had purchased vehicles sold by the applicants. V.S.Kumaran is only a private witness and hence the only option is to file the relevant documents after the receipt of the subpoena issued by this court. It is stated by the first respondent that the proposed additional documents to be filed by PW2 is related to Susee Trucks and Susee Motors are separate legal entity and not with the applicant who is operating in the name of Susee Cars Pvt Limited.

8. Considering the facts and circumstances of the case, this Court is of the view that unless the applicants are given sufficient opportunity to examine and mark their documents as exhibits, they cannot prove the genuineness of the Company. It is open to the respondents to put forth their contentions during cross examination. Hence, this court is inclined to allow this application in the interest of justice.



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9.In fine, this application is allowed subject to proof and relevancy. No costs.

22.12.2023

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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**Pre-Delivery Order in
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22.12.2023