



WEB COPY



A.No.3182 of 2023

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in C.S.No.453 of 2012

SENTHILKUMAR RAMAMOORTHY.J.

By order dated 08.02.2022, the statement of learned counsel for the plaintiff to the effect that the plaintiff does not intend to adduce oral evidence was recorded. On such basis, the oral evidence of the plaintiff was closed and the request of the first and second defendants for further time to file the proof affidavit was taken note of.

2. The plaintiff has filed the present application seeking a clarification of the order dated 08.02.2022. Learned counsel for the plaintiff submits that the plaintiff did not intend to adduce oral evidence, but intended to rely upon documents filed along with the plaint to substantiate the claims made in the plaint.

3. Learned senior counsel for the defendants submits that the plaintiff opted to not lead oral evidence. Therefore, the defendants adduced



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evidence by examining witnesses, who were cross examined by learned counsel for the plaintiff. The case has reached the stage of oral arguments.

At this juncture, the plaintiff cannot be permitted to mark documents and rely upon such documents. He further submits that the order dated 08.02.2022 does not contain any ambiguity and no clarification is required.

4. While the order dated 08.02.2022 records the statement of learned counsel for the plaintiff that the plaintiff does not propose to adduce oral evidence, it does not deal with documentary evidence. To that extent, clarification is necessary.

5. The Commercial Courts Act, 2015 was enacted to expedite the resolution of commercial disputes, including by vesting considerable discretion in the Court with regard to the recording of evidence. In this case, the undisputed position is that the plaintiff had filed ten documents along with the plaint. The defendants filed a statement of admission / denial on 07.09.2022 in respect of such documents, and denied, without assigning any reasons, all the documents filed by the plaintiff. From the above, it is



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evident that the defendants were provided copies of the documents proposed to be relied upon by the plaintiff and, therefore, allowing the plaintiff to exhibit these documents, subject to the objections of the defendants, is warranted in the interest of justice.

6. Therefore, the order dated 08.02.2022 is clarified by permitting the plaintiff to exhibit the ten documents that were filed along with the plaint subject to the objections of the defendants *inter alia* with respect to admissibility, relevance and proof. Since the plaintiff opted not to adduce oral evidence, a proof affidavit may be filed by the plaintiff's witness for the limited purpose of listing and identifying the above mentioned ten documents.

7. This application is disposed of on the above terms.

07.07.2023

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