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A.No.3029 of 2023

in C.S.No.473 of 2019

<i>Reserved on</i>	<i>20.06.2023</i>
<i>Delivered on</i>	<i>26.06.2023</i>

K.KUMARESH BABU, J.

The instant application has been filed seeking to grant leave to the applicant who is the defendant in the suit to file & receive documents that have been shown in the Judges Summons.

2.Heard Mr.Swaroop, learned counsel appearing for the applicant and Mr.P.J.Sri Ganesh, learned counsel appearing for Mr.P.J.Rishikesh, learned counsel for the respondent.

3.Mr.Swaroop, learned counsel appearing for the applicant would submit that the written statement was filed as early as in the year 2020 and that while filing the written statement, the aforesaid documents were not available with the



applicant/defendant and that the said documents are very much necessary to substantiate his case. As regards the first document, he would submit that the plaintiff himself had marked the same, but, however without annexures. The applicant wants to mark the file in its entirety along with annexures. As regards documents 2 & 3, he would submit that there are proceedings initiated by the third parties at the instigation of the respondent/plaintiff. To prove the said conduct of the respondent, the aforesaid documents according to him are very much relevant.

4.Mr.P.J.Sri Ganesh, learned counsel appearing for the respondent would submit that as regards the first document, he does not have any serious objection. But, however, with regard to the documents 2 & 3, he would vehemently oppose the application claiming that both the documents are post suit documents. He would further submit that the claim of the applicant/defendant that the respondent has instigated the filing of the proceedings at the outset itself is without any basis. He would further submit that in spite of specific denial that the respondent/plaintiff



was instigated even assuming that the statement made by the applicant is correct, he would submit as to how those two documents would substantiate such an averment and therefore, he would request the Court to reject the application with regard to the documents 1 & 2.

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

6.Since there was no serious objection as to grant of leave for the documents listed in Sl.No.1 and also taking into consideration that the Special Audit Report without annexures have been marked by the respondent/plaintiff, & now what the applicant/defendant now seeks to mark is the same Special Audit Report with the annexures, I am of the view leave could be granted. But, however, coming to the documents 2 & 3, they are post suit documents and it is a company petition and a complaint filed by a third party. Except for bald averments that the said



proceedings have been initiated at the instigation of the respondent/plaintiff, there is no substantial material produced to accept the same. Further, issues have been framed by this Court as early as on 14.09.2020. It is pertinent to note that there were about 10 issues that have been framed by this Court. There are no issues that have been framed for which the documents in Sl.Nos.2 & 3 are relevant. In my view, the applicant is trying to introduce a document which would not be relevant to the issues framed by this Court.

7.For the findings & reasonings above, I am of the view that the application is allowed in part, leave is granted in respect of document listed as Sl.No.1 to the application and the leave is rejected in respect of documents in Sl.Nos.2 & 3.

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Pre-delivery order in

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