

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1119 OF 2024

Ramesh Keshav Kadam

.. Petitioner

Versus

Star Wordwide Movers Pvt Ltd

.. Respondent

-
- Mr. M.S. Bhandari i/by Ms. Pranjali Bhandari for Petitioner
-

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 29, 2024

P. C.:

1. Heard Mr. Bhandari, learned Advocate for Petitioner.
2. Impugned order dated 13.04.2023 partly allows Notice of Motion No. 237/2023 filed in a Commercial Suit pending between the parties. The compilation of documents exhibited by the learned Trial Court is at Exh. D, page No. 58 of the Petition.
3. Mr. Bhandari would point out that order dated 13.04.2023 is restricted to documents at Sr. Nos. 11, 12, 13, 15 & 16 only. He would submit that out of these 5 documents, the learned Trial Court has exhibited documents at Sr. No. 12 and the email dated 20.01.2012 and certificate under Section 65B has been taken on record. He would submit that the affidavit of evidence of Plaintiff contained adequate reference to the document at Sr. No. 11 as also the correspondence between the parties at Sr. Nos. 13, 15 and 16. The said

correspondence pertains to the suit transaction *inter se* between the parties. Hence he would submit that partly allowing some of the documents and rejecting the others merely on the ground that there is no specific reference to the said documents in the suit plaint should not be a ground to reject the same if the Plaintiff is in a position to show that the said transaction *inter se* between the parties pertains to the suit transaction itself.

4. In view of the above, an arguable case is made out by Mr. Bhandari for issuance of notice. Hence, issue notice to the Respondent made returnable on 05.02.2024. Humdast permitted. In addition to Court's notice, Petitioner is directed to serve copy of the Petition along with copy of this order to the Respondent and inform about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof on or before the next date. After receiving the notice, Respondent to file affidavit-in-reply on or before the next date, if so desired.

5. Respondent is directed to remain present either himself or through Advocate on the next adjourned date. It is made clear that if nobody appears for the Respondent despite service on the next adjourned date, this Writ Petition shall be heard and disposed of at the stage of admission in the absence of Respondent.

6. Stand over to 5th February, 2024.

Amberkar

[MILIND N. JADHAV, J.]

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