



A.No.1110 of 2024
in C.S.No.949 of 2004

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Reserved on: 16.04.2024

Pronounced on: 26.04.2024

P.B.BALAJI, J.,

This application has been filed by the plaintiff, seeking to receive 36 documents to be marked as Exhibits.

2.The applicant/2nd plaintiff has stated that she was brought on record as legal representative of the 1st plaintiff, as per order dated 04.08.2021.

3.The suit is one for dissolution of the partnership firm and other reliefs and according to the applicant/plaintiff, during the lifetime of her mother, she was assisting her mother, the sole plaintiff then prosecuting the suit. The applicant's mother died on 24.07.2018 and when the applicant was preparing the proof affidavit with the help of her counsel, she stumbled upon various documents which are material to the suit claim. Hence, she called upon the learned counsel for the defendants by way of a lawyer's notice dated 12.12.2023 to furnish relevant documents and papers relating to the suit. The said notice was followed up with another notice dated 20.01.2024,

<https://www.mhc.tn.gov.in/judis> styled as notice to produce originals documents that are relied on by the



applicant. The applicant has asserted that she is not in possession of the original documents and since the learned counsel for the respondents/defendants has not made available the originals and has also not replied to the notice to produce communication, the applicant seeks to mark the documents which have been set out by way of a separate list numbering 36 documents, as secondary evidence.

4.The application is strongly opposed by the respondents/defendants who have filed a counter affidavit stating that the additional documents would not satisfy the requirement of Order IX Rule 8 of Original Side Rules and some of the documents are self drafted documents which are not admissible in evidence.

5.I have heard Mr.K.V.Anantha Krushnan, learned counsel for the applicant and Mr.R.Thiagarajan, learned counsel for the respondents 1 to 5.

6.The trial of the suit is yet to commence. The applicant, who is the 2nd plaintiff in the suit seeks to rely on the said additional documents which were not filed originally along with the plaint. It is an admitted fact that the suit was originally filed by the mother of the present applicant and realizing that the documents which are now sought to be produced are



material for proving the suit claim, the applicant has also called upon the respondents through their counsel, by way of a notice to produce communication. Admittedly, there is no reply to the same till date.

7.However, at the same time, I find the objection taken by the learned counsel for the respondents, Mr.R.Thiagarajan, regarding the self styled documents, namely documents 27, 28, 29 and 31 to be self serving documents styled as 'current status of property'. The said documents are not admissible in evidence and they are also not documents which can be admitted even as secondary evidence. In so far as other documents, I find that they are all pertaining to the suit claim and therefore, no prejudice would be caused to the respondents, if those documents are received in evidence, subject to admissibility proof and relevancy.

8.In the result, this application is allowed in part and the documents set out in the judges summons, excepting the documents Nos.27, 28, 29 and 31 may be received in evidence, subject to admissibility, proof and relevancy.

26.04.2024
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Pre-delivery order made in
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