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A.Nos.2839 to 2843 of 2024

Reserved on: 16.06.2024

Pronounced on: 28.06.2024

**A.Nos.2839 to 2843 of 2024**  
**in CS.No.757 of 2016**

**P.B.BALAJI, J.**

These applications have been filed to reopen the plaintiff side evidence; to recall P.W.1, namely V.T.C.Selvaraj; to re-open the defendants side evidence; to recall D.W.1, namely Hameetha Amir and to condone delay of in filing documents namely, (a) Indian Overseas Bank Statement for the period from 01.01.2005 to 30.12.2006; (b) South Indian Bank Statement for the period from 01.01.2001 to 06.03.2023 and (c) HDFC Bank Statement for the period from 01.04.2005 to 31.12.2007.

2.I have heard Mr.M.Ramesh, learned counsel for the applicant in all the applications and Mr.T.Natarajan for M/S. Aiyar and Dolia, learned counsel for the respondents in all the applications.

3.Mr.M.Ramesh, learned counsel for the applicant in all these applications would submit that the suit is posted for arguments and at



that stage, the plaintiff has realized that he has not informed his counsel about the sale consideration, which was never reflected in his bank accounts and therefore, the documents will have to be necessarily marked to establish the claim of the plaintiff. He would further state that only because of the ill-health of the Applicant/Plaintiff, the applications could not be filed earlier and with regard to these documents that are sought to be marked, P.W.1 and D.W.1 will also have to be recalled and further examined in chief and cross respectively. He would further submit that no prejudice would be caused by allowing the applications, as the evidence, which is sought to be brought and recalled is only to establish that the alleged consideration said to have been paid is not reflected in any of the bank accounts of the petitioner/claimant and thus remains unpaid.

4.Per contra, Mr.T.Natarajan, learned counsel for the respondents would submit that the applications are nothing but an abuse of process of law and by allowing these self-serving documents, it would not in any manner further the case Applicant/Plaintiff. He would also submit that



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there is absolutely no pleading about these documents in the plaint or even during the examination of the witnesses. He would also submit that the consideration is clearly reflected in the Sale Deed dated 31.03.2006 and therefore, the Applicant/Plaintiff cannot be allowed to invent a new story.

5.I have carefully considered the rival submissions advanced by the learned counsel on either side.

6.The primary application amongst all these applications is the application to receive additional documents, namely bank statements of the Petitioner/Plaintiff with three different banks. The attempt made on the part of the Applicant/Plaintiff is to establish that the sale consideration of Rs.81,00,000/- has not been deposited in any of the above three accounts.

7.Admittedly, in the Sale Deed dated 31.03.2006, while reflecting the sale consideration portion, it is specifically mentioned that a sum of



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Rs.81,00,000/- has been paid by cheque bearing Cheque No.903295 dated 18.07.2005. The suit was filed in the year 2016 and the Sale Deed is of the year 2006. The petitioner had full opportunity to lead evidence and also cross-examine the defendants' witness. After completion of trial, the present applications are taken out by attempting to establish that the sale consideration has not been paid to the Applicant/Plaintiff.

8.Admittedly, the Sale Deed reflects a payment to sale consideration by Cheque No.903295 dated 18.07.2005. It was not necessary that the plaintiff should have deposited the saidt amount only in the three bank accounts, statements of which are now sought to be marked.

9.In any event, the applications are highly belated and at this juncture, to reopen and recall both the plaintiff's witness as well as the defendants' witness, namely P.W.1 and D.W.1 and to mark bank statements which are only in the nature of an attempt to prove the negative cannot be permitted. I see absolutely no just cause for



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entertaining the present applications. In any event, the suit is in the stage of arguments and the parties have already led evidence and the applications at this last hour cannot be entertained. For all the above reasons, I am not inclined to allow these applications.

10.In fine, all the above applications are dismissed.

**28.06.2024**

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**P.B.BALAJI, J.**

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**Pre-delivery order made in**  
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**in CS.No.757 of 2016**

**28.06.2024**