



(TM)A.Nos.55 & 56 of 2024
in (T)OP(TM) No.55 of 2023

Reserved on: 02.07.2024

Pronounced on: 05.07.2024

WEB COPY

P.B.BALAJI, J.,

The application in (TM)A.No.55 of 2024 has been filed to permit the applicant to mark the documents set out in Schedule A to the Judge's Summons as additional documents in examination in chief and (TM)A.No.56 of 2024 has been filed to permit the applicant to bring on record the documents as mentioned in Schedule A to the Judge's Summons as additional documents.

2.I have heard Ms.Vandana Jain, learned counsel for Mr.Arun C.Mohan, learned counsel for the applicant and Mr.Balamurali, learned counsel for Mr.Shivakumar learned counsel for the 1st respondent and Mr.R.Rajesh Vivekananthan, learned counsel for the 2nd respondent in both the applications.

3.The learned counsel for the applicant in both the applications would submit that no new documents have been introduced and all the documents are filed along with the petition. Only because of the documents



not being legible they could not be marked and hence, legible copies are sought to be marked along with the e-mail correspondence with the editor of Malayalam Manorama. The documents 5 to 11 are certified copies of incorporation certificates and being public documents no serious prejudice would be caused to the respondent if all these documents are received.

4.Per contra, Mr.Balamurali, learned counsel for the contesting respondents in both the applications would submit that Section 137 of the Indian Evidence Act would not apply to the facts of the present case and already 28 documents have been marked on the side of the applicant and the present documents are not relevant for the purpose of rectification petition. Moreover, Order XI of Code of Civil Procedure as amended by the Commercial Courts Act provides that unless sufficient and reasonable cause is shown in the application, additional documents cannot be permitted to be received. Therefore, he sought for dismissal of the applications.

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

6.No doubt, Order XI Rule 1(10) of CPC has been amended by the Commercial Courts Act and additional documents can be received only subject to the conditions envisaged in the amended Rule.



WEB COPY

7.The High Court of Delhi in *Bennett Coleman and Company Limited Vs. E Entertainment Television LLC and Another* in *C.O.(Comm.Ipd-TM) No.86 of 2022* dated *16.11.2023*, had an occasion to deal with the applicability of provisions of Order XI Rule 1(10) of CPC as amended by the Commercial Courts Act and held that the amendment to Order XI Rule 1(10) of Code of Civil Procedure would squarely apply to intellectual property disputes as well. However, in the very same decision, the High Court of Delhi has held that the relevancy of the documents can be tested at the hearing and that would not be a ground to deny an opportunity to the petitioner to bring on record additional documents. In fact, it is settled law that the procedure is a hand made of justice and technical considerations will not prevail over considerations of substantial justice. Hence, I see no reason to deny the request made in the above applications. Accordingly, both the applications are allowed and the documents are received subject to admissibility, proof and relevancy.

05.07.2024

ata



WEB COPY



P.B.BALAJI, J.
ata

Pre-delivery order made in
(TM)A.Nos.55 & 56 of 2024
in (T)OP(TM) No.55 of 2023

05.07.2024