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A.No.2817 of 2024
in
C.S.No.565 of 2012

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P.VELMURUGAN, J

This application has been filed to grant leave to the applicant/plaintiff to file an additional document in support of the plaint.

2. The suit has been filed for recovery of money under the trade credit policies issued by defendants 1 and 2.

3. The plaintiff's claim has been repudiated by defendants 1 and 2 by their letter dated 08.04.2011 on the ground that the insurance policies covered specific transactions, which are subject to terms and conditions of the insurance policies. Aggrieved by the repudiation, the plaintiff Bank has filed the suit against the insurers, namely, defendants 1 and 2 as well as the borrower, namely, the third defendant, jointly and severally.

4. Along with the plaint, at the time of filing the suit, the plaintiff had filed 170 documents in support of their claim, and thereafter, with



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leave of this Court, 44 documents were filed, and in all, put together, 214 documents were filed by the plaintiff.

5. A written statement was also filed by defendants 1 and 2 denying their liability and they have stated that they have rightly repudiated the insurance claim made by the plaintiff under the trade credit policy issued in respect of debt payable by the borrower of the plaintiff, namely, the third defendant. The third defendant-Company, which is the borrower, has gone into liquidation and has been wound up pursuant to the orders passed by this Court and now they are represented by the Official Liquidator.

6. Based on the pleadings of the respective parties, this Court framed issues. Thereafter, this Court had fixed the Case Management Schedule for the trial. At the stage of examination of plaintiff's witnesses, an application in A.No.5421 of 2023 has been filed seeking for a direction to the first defendant to produce the documents disclosed in the Judges' Summons, pursuant to the notice to produce, dated 07.09.2023 issued by



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the plaintiff to the counsel for defendants 1 and 2. The said application came to be dismissed by this Court on 27.02.2024. Thereafter, this Court directed both the parties to file Proof Affidavits and Case Management Hearing. As such, the plaintiff and defendants have filed Proof Affidavits of P.W.1, P.W.2 and D.W.1 and also Case Management Hearing. After filing of Proof Affidavits and Case Management Hearing, this Court had fixed the Case Management Schedule for trial, which has also commenced and P.W.1 has been examined in chief and Ex.P-1 to Ex.P-215 were marked and cross examination of P.W.1 is being conducted in part. During the pendency of trial, the learned counsel for the plaintiff has come forward with the present application to grant leave to the applicant/plaintiff to file an additional document in support of the plaint.

7. The learned counsel for the applicant / plaintiff submitted that the plaintiff-Bank has received a communication dated 21st May 2024 from the Central Bureau of Investigation, in response to their follow-ups on their complaint as against the third defendant, which would clearly establish the case of the plaintiff as to how the policies came to be issued.



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In the said communication, the agency has stated that they have investigated the subject matter and it is the executives of defendants 1 and 3, who were culpable and charge-sheeted. It is also stated that as regards the role of Bank officials, no criminal liability emerged during the course of investigation and a closure report has also been filed on 22.11.2016. Therefore, the said communication is a material document and that document sought to be filed and marked as additional document, which is crucial and relevant document required for the plaintiff to establish its case. The learned counsel for the plaintiff further submitted that no prejudice would be caused to the other parties by grant of leave to the plaintiff for filing the additional document.

8. A counter affidavit has been filed by respondents 1 and 2 / defendants 1 and 2 in this application, denying the allegations of the applicant/plaintiff. The Bank has filed the present application seeking to adduce a letter received from CBI in respect of closure report, dated 22.11.2016. The entire document is not only irrelevant for the purpose of deciding the present suit, but also mischievously filed without disclosing



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the communication purported to have been sent by the Bank or the actual closure report, dated 22.11.2016. According to respondents 1 and 2, the present application is not maintainable at this belated stage, that too, even as P.W.1 is being cross examined by defendants 1 and 2.

9. Heard the learned counsel for the applicant / plaintiff and the learned counsel for respondents/defendants and perused the materials available on record.

10. As per the Case Management Schedule, on 05.06.2024 and 06.06.2024, P.W.1 was examined in chief and Ex.P1 to Ex.P215 were marked; and that on 07.06.2024, cross examination of P.W.1 was conducted in part. During the pendency of trial, on 11.06.2024, the learned counsel for the plaintiff represented that an application has already been filed for reception of additional document, and requested to post the matter before this Court.



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11. On a perusal of documents, it is seen that suit is of the year 2012. The closure report referred to in the communication dated 21.05.2024 sought to be marked, is of the year 2016. At the time of filing the affidavit of admission/denial of document and Case Management Schedule, the applicant/plaintiff has not sought permission to file the said document. The said document is very well existing, even prior to filing of the affidavit of admission / denial of documents. The plaintiff has come up with the present application only to protract the trial. The *modus-operandi* adopted by the plaintiff in this case is only after fixing the Case Management Schedule, and the plaintiff has adopted this method, which is nothing but abuse of process of law and this application is only frivolous.

12. For the forgoing reasons, this Court does not find any merit in this application and accordingly, this application is dismissed with exemplary costs of Rs.1,00,000/- (Rupees one lakh only) to be paid to the respondents.

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