

A No.1902 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-07-2025

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THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

A No.1902 of 2025 in

C.S.No.821 of 2017

N.Abdul Salam
S/o N.V.Pocker, NPV House, Kalpetta P.O.,
Muttill, Wayanad-673 122.

Applicant(s)

Vs

The Vice President
Head, CBB, Corporate Banking, Axis Bank
Limited, 192, Anna Salai, Karumuthu Nilayam,
1 st Floor, Ch-2. and 6 Others

Respondent(s)

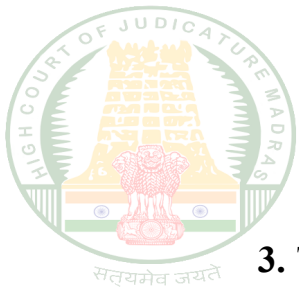
For Applicant(s):

M/s.M.T.Arunan
M.A.Aruneshe-ms/2077/2014

ORDER

This application has been filed to mark secondary evidence of the documents as listed in the list of documents in the Judges Summon.

2. The applicant is the plaintiff in the suit. The applicant will have to now graze the witness box. At that stage this particular application has been filed. It is stated that further application has been filed to produce a certificate under Section 63 (4) Bharatiya Sakshya Adhiniyam, 2023 (in short BSA) with respect to electronic documents, which are also listed in the list of documents.

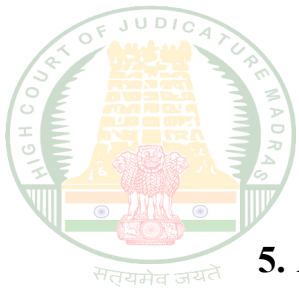


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3. The suit had been filed seeking a direction against the defendants to pay to the plaintiff a sum of Rs.3,50,00,000/- together with interest and costs. In the cause of action, it had been stated that the amount is claimed owing to alleged fraud which the plaintiff alleges against the first defendant and had protested the fraud by sending e-mail communications to the Ombudsman of the Bank. The Bank had been impleaded as the second defendant in the suit. Among the documents now sought to be produced, there are several other documents which are in the possession of the second defendant. It would only be appropriate that the plaintiff files an application to issue Subpoena to the Bank officials to produce the original records.

4. The learned counsel for the 6th Respondent / 6th defendant raised an objection for marking of secondary documents and also stated that the originals which are available with the Bank could be summoned from the bank. It is also contended that copies of the documents had not been given to the learned counsels.



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5. A perusal of the list of documents shows that over the documents in S.Nos.4, 5, 6, 7, 9, 11, 12, 13, 17, 20, 21 and 24 the second defendant has control and according to the learned counsel also has possession. Therefore, the secondary evidence of those documents cannot be marked. If the plaintiff is still interested in marking of those documents, he can always issue subpoena to the bank officials to produce the originals. This leaves for consideration only documents in S.Nos.1, 2, 14, 15, 16, 19, 22 and 23. The copies / originals of these documents are permitted to be marked.

6. The document No.18 is a letter from CBI to the plaintiff. If the plaintiff had received the letter, then the plaintiff should have the original with him. In the affidavit filed in support of the Judges Summons with respect to this particular document, there is no specific statement made as to what happened to the original. Therefore the copy cannot be marked. But the applicant can always issue summons to CBI to produce original or their office copy. This leaves out document in S.Nos.3, 8 and 10 which are certificates under Section 63 (4) BSA. The learned counsel states that a separate application has been filed with respect to those documents.



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Therefore those documents would be considered in that particular application whenever the same comes for consideration before this Court.

7. The application is partly allowed only with respect to documents in S.Nos.1, 2, 14, 15, 16, 19, 22 and 23.

8. List whenever any further application is filed and numbered by the Registry.

07-07-2025

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To

1. The Vice President
Head, CBB, Corporate Banking,
Axis Bank Limited,
192, Anna Salai,
Karumuthu Nilayam, 1 st Floor, Ch-2.

2. Axis Bank SME Center
Axis Bank Limited ,192, Anna Salai,
Karumuthu Nilayam, 1 st Floor, Ch-2.

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