

25-3-2019

P. M N
D1 – CGG
D2 – Expt.
D3, D4 – MDA

Order on I.A.No.5

This application is filed u/O.XVI R.6 r.w.S.151 of CPC by plaintiff seeking directions to the General Manager, State Bank of India, RACPC, Banaswadi , Bengaluru, to produce 12 documents shown in the list. It is contested by the defendant No.1 by filing his objection statement. Defendants 3 and 4 have not taken interest to contest. The defendant No.2 is placed Exparte. Heard the learned advocates representing the parties and perused the case file.

2. This is a suit for specific performance and for such other reliefs. The plaintiffs examined plaintiff No.1 as PW1 and they already got marked 11 documents. When the matter was adjourned for cross-examination of PW1, the plaintiff came up with the application and seeks to summon the documents from the custody of Bank. Objecting the said application, the defendant No.1 submits that the said documents are totally irrelevant and their summoning is unnecessary. In this background, having gone through the defence version as well as the Issues framed herein, at this stage it is inappropriate to hold whether the said documents have any relevancy or not. It is for the plaintiffs to show how the said documents are relevant and how they have bearing on the Issues in hand, when the stage for that comes up. When the concerned Bank has given a letter on 1-3-2019 acknowledging the custody of those documents, protecting the interest of the said banker, who is a creditor of the plaintiffs, if those documents are summoned, exhibited and by replacing the exhibited documents with the certified copies and the said originals are returned to the creditor, there will be no hardship to the said creditor and

plaintiffs can prove the relevancy in due course. According to me, the said exercise will not harm the defendant No.1 in neither way, but on account of the delay in part of the plaintiffs in moving the same, some costs shall have to be imposed on them. Hence, I am inclined to make the following:

Order

I.A.No.5 is allowed on cost of Rs.1,000/- payable to the defendant No.1.

The General Manager, State Bank of India, RACPC, Banaswadi, Bengaluru, is directed to produce the documents No.1 to 12 as shown in the List, on the next date of hearing. After their production, PW1 shall complete his chief at an earliest and after exhibiting of those documents, shall produce their certified copies at his cost, so that originals can be returned to the said Bank.

Subject to the above condition, I.A.No.5 stands allowed.

(Ron Vasudev)
III A.C.C. & S.J., Bengaluru.