

Order on I.A. No. 7

By oversight IA No.7 was numbered as IA No.6. The Plaintiff filed IA-7 u/O.11 R.1(5) of Commercial Courts Act, 2015, r/w S.151 of CPC praying to receive the documents mentioned in IA No.7 after condoning the delay in filing the same.

In the memorandum of facts, it is stated that the case is posted for further plaintiff evidence. The document No.1 is the extract of resolution passed in the board meeting of the Plaintiff company, authorizing PW.1 to represent and give evidence on behalf of the Plaintiff Company in the above case. Document No.2 is the certified copy of the order dated 24.03.2016 passed in I.A.No.1 in O.S.No. 71/2015 on the file of Civil Judge and JMFC II Court at Karwar. The I.A.No.1 was filed by the Defendant No.1 against the Plaintiff herein under Order 39 Rule 1 and 2 read with Section 151 of CPC and the said IA was dismissed as per Order dated 24-03-2016. The said order was passed subsequently after filing the above case. Document No.3 is the certified

copy of the order sheet in O.S.No.71/2015 on the file of Civil Judge and JMFC II Court at Karwar. The said document discloses that suit of the Defendant No.1 filed against Plaintiff before the Civil Judge and JMFC II Court at Karwar was dismissed for non prosecution on 27.11.2017. The said Order was passed subsequently after filing the above case. Document No.4 is the certified copy of the order sheet in WP No.26947/2015 on the file of High Court of Karnataka. The said document was obtained recently and hence the same was not produced earlier. The documents produced are very much necessary to prove the contention of the Plaintiff. If the application is not allowed, the Plaintiff will be put to irreparable injustice. Hence, prayed to allow IA No.7.

The defendant No.3 has filed objections stating that, the application for production of documents filed by the Plaintiff is not maintainable either on law or on points of facts. The Plaintiff has not made out any grounds much less any valid grounds for granting the reliefs sought in the application. All the allegations made in the memorandum of facts annexed to the application are hereby denied as

false. There is no pleadings about the documents in the plaint, hence on this ground alone application has to be rejected. The Plaintiff has not assigned as sufficient cause to condone the delay for production of documents. The documents are pertaining to 2017 and 2019 no explanation given for delay. The alleged reasons for delay are not admitted to be correct and same are hereby denied. If the application is allowed, it will cause hardship to Defendant No.3. Hence prays to dismiss the I.A.

Heard. The learned counsel for the Defendant No.3 filed written arguments.

Upon perusal it is noted that, document No.1 – True copy of resolution passed in the board meeting of the Plaintiff company dated 29-11-2023, document No.2-Certified copy of the order in IA .No.I in O.S.No.71/2015 on the file of Civil Judge and JMFC II Court at Karwar, dated 24-03-2016, document No.3 – Certified copy of the order sheet in O.S.No.71/2015 on the file of Civil Judge and JMFC II Court at Karwar dated 27-11-2017 and document No.4 – Certified copy of ordersheet in WP No.26947/2015 on the file of High Court of Karnataka dated 15-04-2019.

As the proposed documents were found necessary for complete adjudication and opponent having an opportunity to cross-examine the witness to test the credibility of the documents. In the interest of justice and imposing cost for delay, I proceed to pass the following:

Order

IA-7 filed u/O.11 R.1(5)Commercial Courts Act, 2015 r/w S.151 of CPC by the plaintiff is hereby allowed on cost of ₹. 400/-.

For further chief of PW.1 by 17-09-2024.

Sd/-XXX

IV ADJ, Mangaluru.