

MHRG170005452022



IN THE COURT OF DISTRICT JUDGE-2, PANVEL-RAIGAD

COMMERCIAL SUIT NO.02/2022
ORDER BELOW EXH.165
(M/S. LARK CONSTRUCTIONS PVT. LTD. V/S
MAHARASHTRA JEEVAN PRADHIKARAN AND OTHERS)

(PASSED ON 27th DAY OF FEBRUARY, 2024)

1. The plaintiff filed present application under Order VII Rule 14(3) read with Order XI Rule 1(5) of the Code of Civil Procedure for production of document on which plaintiff sue or relies.
2. The defendants filed their reply vide Exh.167 and objected the application.
3. Points for the determination and my findings thereon for the reasons stated below ;

SR. NO.	POINTS	FINDINGS
I.	Whether grounds are justified to allow plaintiffs for production of documents in terms of prayer?	Yes.
II.	What Order ?	The application is Allowed.

REASONS

AS TO POINTS NO. I AND II :

4. Plaintiff filed present suit for recovery of amount in pursuance of the assignment of work contract. Initially this suit was registered as civil suit and was pending before Civil Judge Senior Division, Panvel. The plaintiff has filed evidence by way of affidavit before Civil Court coupled with some of the documents. Subsequently the suit is transferred to this court as a commercial dispute between the parties.

5. The plaintiff filed fresh affidavit in support of his claim vide Exh.162. The said affidavit is taken on record. During pendency of the stage of evidence and before beginning

of cross-examination on behalf of defendants, present application is filed.

6. Now according to the plaintiff, the earlier advocate has not chosen to put it on record the letters mentioned in Para 4 of this application though handed over to the advocate at the time of draft of the suit. Those letters were supporting the cause of action and the basis of entire pleadings of the suit. These letters are touching to the cause of the suit, hence would like to place it on record. Further the plaintiff would like to place it on record subsequent letters received post filing of suit as mentioned in Para 5 of the application. These letters have not placed it on record as such, moved present application.

7. Defendants objected this application that plaintiff failed to accord satisfactory reason of non-production of documents alongwith the plaint. The reason mentioned in the application as to blame to earlier advocate is not justified. Plaintiff is negligent as such, the production of document cannot be allowed.

8. On that count, learned advocate of plaintiff relied on the observation of Hon'ble High Court of Gujrat at Ahmadabad in the case of **State of Gujrat V/s. Union of India, 2018 SCC**

OnLine Guj 1515 wherein it is observed the provisions of Order XI Rule 1 (5) of CPC applicable to the commercial dispute and the provisions of Order VII Rule 14(3) of CPC shall not be applicable to the commercial dispute and the proceedings under the Commercial Courts Act. In the said set of facts, Hon'ble Gujrat High Court allowed the production of documents to the plaintiffs subject to the proof of contents in accordance with provisions of Indian Evidence Act. The jurisdiction to commercial court to be exercised in view of Order XII Rule 1(5) of CPC.

9. On the backdrop of this submission, it is apparent that plaintiff has led evidence by way of affidavit. The plaintiff has placed on record the documents. Now some of the documents are left as mentioned in Para 4 and 5 of the application. Those letters are pertaining to the pleadings of the parties. The production of document with respect to the pleadings of the parties ought to have been allowed to place on record. The cross-examination on behalf of defendants has not begun yet as such, defendants have opportunity to conduct cross-examination with reference to those documents and pleadings. There is no prejudice caused to the defendants.

10. In the light of foregoing, production of documents in

terms of prayer ought to be allowed subject to proof of its contents. Hence, I answer Point No.I in the affirmative. With this, I pass following order ;

ORDER

1)	The application for production of document as mentioned in Para 4 and 5 of the application is allowed subject to proof of its contents.
2)	Parties to take note of it.
	Dictated and pronounced in open Court.

Panvel,

Date :- 27.02.2024.

(K.G.Paldewar)

District Judge-2, Panvel-Raigad

Arguments heard on	07 th Day of February, 2024.
Judgment/order delivered on	27 th Day of February, 2024.
Dictated on	27 th Day of February, 2024.
Transcribed on	27 th Day of February, 2024.
Checked and signed on	27 th Day of February, 2024.

-6- Commercial Suit No.02/2022
M/s.Lark Constructions Pvt.Ltd. V/s.
Maharashtra Jeevan Pradhikaran and
others
Exh.165.

CERTIFICATE

I affirm that the contents of this PDF file
Judgment/Order is same and as per the original
Judgment/Order.

Name of the Stenographer : P.S.Mhatre,
Name of the Court : District Judge-2, Panvel
Date of Judgment/Order : 27.02.2024
Judgment/Order signed on : 27.02.2024
Presiding Officer : K.G. Paldewar
Judgment/Order uploaded on : 27.02.2024