

Sp. C. S. No. 26/2014

M/s. Ratan Metals Thr.

Vinod Manilal Oswal

---- **Plaintiff**

Vs.

M/s. Yash Enterprises Thr.

Mrs. Rekha Hrudaynath Parte & Ors.

---- **Defendants**

Order Below Exh. 32

1. Defendant Nos. 1 and 2 have filed this application to frame additional issues.

2. Plaintiff has taken strong objection and prayed to reject the application.

3. Heard both sides.

4. It is submitted by the defendants that, the plaintiff supplied inferior quality raw material to the defendants so, defendants sustain loss of Rs. 15,93,140/- and other expenditure of Rs. 5 lacs. The plaintiff has deliberately not made party to Parte Casters Pvt. Ltd, M/s. Fulchand Dalmal & company, Shaha Mitahlal Tejmal Jain. The plaintiff has wrongly made party to defendant No. 2 hence, the suit is bad for non joinder of necessary parties and misjoinder of party.

4. Defendants have suggested the additional issued as :

i) Whether suit is not tenable due to non joinder of necessary parties?

ii) Whether defendants proves that due to low quality goods supplied by the plaintiffs defendants have suffered loss of Rs. 15,93,140/- and other expenses of Rs. 5 lacs?

iii) Whether defendant is entitled for compensatory cost of Rs. 25,000/-?

On reading of the plaint it appears that the plaintiff has claimed the amount of supplying of raw material to the defendants. There is transaction between plaintiff and defendants of supply of raw material. Therefore, recovery of the amount is issue between the plaintiff and defendants. According to plaintiff he had brought the raw material from other parties i.e. Parte Casters Pvt. Ltd, M/s. Fulchand Dalmal & company, Shaha Mitahlal Tejmal Jain. The issues of quality of raw material if any, will be between the plaintiff and those persons. Those persons are not directly concerned with the defendants. The plaintiff can file suit against those persons if he has any problem of the quality of raw material supplied by them. Therefore, joining those parties may create complications in the present suit.

4. The defendants have not present their counter claim for loss caused by them and for compensation for that loss. Therefore, the issue in respect of the loss or expenses incurred by the defendants due to

supply of low quality raw material cannot be framed as it is different from the present dispute. Hence, considering contentions in the plaint and written statement there is no need to frame additional issues as prayed by the defendants. Therefore, application is liable for rejection.

In the result, I pass the following order.

ORDER

1. Application is rejected.

(Dictated and pronounced in open Court)

Dt. 19/03/2016
Karad.

(P. A. Savadikar)
Civil Court Sr. Dn. Karad.

Ganesh D. Jadhav,
Stenographer (L.G.)