

MHST-0500-0503-2020

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD

ORDER BELOW EXH.155

IN

R.C.S. No.667/2020

Ogale Glass Works Ltd. Through power of attorney holder, Shri. Mukund Namdev Kadam	...Plaintiff.
<i>Versus</i>	
1. Rajaram Pandurang Patil & Ors.	...Defendants.

Advocate Shri. R. D. Kadam for the plaintiff.

Advocate Shri. V. B. Patil for the defendants.

Coram : S. B. Todkar,
C.J.S.D. Karad.
Date : 26/07/2024

ORAL ORDER :

This is an application filed by the Ld. Advocate for the defendant Nos.1 to 8 for permission to produce the documents mentioned in the document list Exh.156 on record.

2. Perused the application and handwritten say given by Ld. Advocate for the plaintiff on application overleaf. Heard Ld. Advocates for both side.

3. It appears from the record that plaintiff has filed suit against defendants for perpetual and mandatory injunction on the grounds specifically mentioned in the plaint. After service of writ of summons defendants appeared before the Court and filed their written statement at Exh.35. Matter is pending for hearing temporary injunction application on merit. It also appears from record that my then the Ld. Predecessor issued on 30/10/2020 ex parte ad-interim temporary injunction restraining the defendant No.3 from causing

further any construction in the suit property till his appearance and passed the order dated 16/11/2021 that interim relief continued till further order. Thereafter, on behalf of plaintiff his advocate has filed application below Exh.148 for police aid and thereafter on behalf of defendants present application is filed for the production of documents. The defendants have also filed their reply at Exh.157 to the application filed by plaintiff at Exh.148. As per the contents of present application, the documents mentioned in documents list Exh.156 are important for the determination of real question involved in the interim pending applications. Hence, the application.

4. After perusal of the contents of present application, it appears the alleged documents are necessary to determine the real question in controversy involved in the interim pending application. If present application allowed, no prejudice would be caused to the plaintiff. Plaintiff can get an opportunity to file its say and refer or rebut the documents at the time of argument. The said documents are related to the issues involved in the interim application and the real controversy between the parties. It appears from record that whatever documents produced alongwith present application and with document list Exh.156 were not produced at earlier stage, therefore, defendant Nos.1 to 8 are seeking permission from the Court to produce it alongwith present application. As per Order VIII Rule 1-A sub-clause (3) of the Code of Civil Procedure, 1908, a document which ought to be produced in Court by the defendant under this Rule, but, is not so produced shall not, without the leave of the Court be received in evidence in his behalf at the hearing of the suit. Whatever documents produced by the defendant Nos.1 to 8 alongwith the present application and document list are the documents on which they want to rely, to support argument on interim applications. The said documents are necessary for the purpose of determining the real question in

controversy between the parties in the interim applications. Moreover, it is necessary to give full and fair opportunity to both the parties to prove their contentions in the main petition and its say or to give opportunity to both the parties to produce documents on which they want to rely for hearing the interim applications. Therefore, I found substance in the submission made in the present application. Hence, I proceed to pass the following order.

ORDER

1. Application Exh.155 is allowed as follows.
2. Permission is granted to the defendant Nos.1 to 8 to produce the documents mentioned in the document list Exh.156 on record which are in support of their pleadings in their written statement and their reply at Exh.157.

Date : 26/07/2024.

Place-Karad.

[S. B. Todkar]

Civil Judge S.D. Karad.