

MHST-0500-0503-2020
IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARAD
ORDER BELOW EXH.166
IN
R.C.S. No.667/2020

Ogale Glass Works Ltd. Through Director and 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 : 19/08/2024

ORAL ORDER :

This is an application filed by the Ld. Advocate for the defendants for permission to produce the documents mentioned in the document list Exh.165 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

exparte 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 16/11/202021 that interim relief continued till further order. Thereafter, on behalf of plaintiff his advocate has filed application below Exh.148, which is not pressed by him and lateron filed an application below Exh.159 for police aid and thereafter on behalf of defendants their Ld. advocate has has filed present application for production of documents. As per the contents of present application, the documents mentioned in documents list Exh.165 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 his 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.165 were not produced at earlier stage, therefore, defendants 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 defendants alongwith the

present application and document list Exh.165 are the documents on which they want to rely, to support argument of 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.164 is allowed as follows.
2. Permission is granted to the defendants to produce the documents mentioned in the document list Exh.165 on record which are in support of their pleadings.

Date : 19/08/2024.
Place-Karad.

[S. B. Todkar]
Civil Judge S.D. Karad.