

Order Below Exh.26 in Sum. Suit No. 11/2018

Unimax India

Vs.

Sitaram Maharaj Sakhar Karkhana (Kharadi) Ltd.,

1. Present application is filed by plaintiff seeking order to defendant to produce on record the original invoices which were sent by plaintiff to the defendant and of which copy filed by plaintiff as documents No.1 to 14 with list Exh.3. As per contents of the application, the original invoices were sent by the plaintiff to the defendant and the same are in possession of the defendant. Accordingly, it is prayed to direct the defendant to produce the original invoices which are in their possession. Similarly, it is also prayed to direct the defendant to produce their audit reports.

2. Despite grant of opportunity, defendant failed to file say.

3. Perused the application and record. Heard. It is to be noted that, by way of present application the plaintiff seeking directions to the defendant to produce on record original invoices and audit reports which are in their possession. However, it is to be noted that, the plaintiff is firstly require to file the application as per Order 11 Rule 12 of C.P.C. for discovery of documents before moving application for production of documents. The purpose of firstly applying for discovery of documents is to afford opportunity to the other side to make discovery on oath of the documents which are or have been in its possession or power relating to any matter in question or to explain how the documents cannot be in its possession. Therefore, a party directly filing the application for direction to other side to produce

certain documents on record without firstly applying for discovery of documents as per Order 11 Rule 12 of C.P.C. or without giving notice to produce as contemplated by Order 11 Rule 16 of C.P.C. would not be giving chance to the other side to make discovery of documents or explain its stand about possession of those documents. Under such situation if without compliance with provision of Order 11 Rule 12 of C.P.C. or Order 11 Rule 16 of C.P.C. the other party is directed to produce documents then that would amounts to pre-supposing that the documents are in possession or power of the other side without giving any opportunity to the other side to explain his stand. Therefore, I am of the considered view that, the prayer of the plaintiff seeking direction of this court against the defendant to produce the documents on record without firstly complying with provisions of Order 11, Rule 12 or Order 11, Rule 16 of C.P.C. is not maintainable. Hence, the following order :-

Order

1. The application is rejected.
2. The plaintiff shall bear the cost of present application.

Date – 05/03/2022

Place – Karad

(A. P. Kulkarni)
4th Jt. CJSD, Karad