

IN THE II ADDITIONAL CITY CIVIL COURT, CHENNAI

**Present: Ms.S.Sameena, B.A. L.L.B.,
II Additional Judge**

Friday, the 3rd day of July 2020

Interlocutory Application No.2/2019

in

O.S.No.10751/2010

A.Thamim Ansari

.. Petitioner/defendant

Vs.

Narayanan @ Rose

..Respondent/plaintiff

This petition coming on 19.03.2020 for final hearing before this Court in the presence of M/s.A.Abdul Ravoof and K.Abdul Owais Learned Counsel for the Petitioner/defendant and of M/s.K.Mohanamurali, S.Bhuvana and M.Kaushik Krishna Learned counsel for Respondent/plaintiff and upon perusing the petition and counter and on hearing both sides and having stood over for consideration till this day, this Court delivered the following:

ORDER

This is an application filed by the petitioner/defendant under Order VIII Rule 1A(3) of CPC to permit the petitioner to mark the documents on the side of defendant.

2. Suit for declaration and injunction.

3. In the petition it is stated that in the Written Statement the defendant had stated that he had sent letters to the plaintiff and the plaintiff has also sent notice to the defendant. Those documents were misplaced and traced out only now and are vital documents to disprove the suit. Hence petition for receiving the documents.

4. The respondent/plaintiff filed counter contending that the letters dated 17.05.2007 and 11.03.2008 were not addressed to the plaintiff nor received by him. The reason stated in the petition is false and if the documents are permitted to be marked, the plaintiff will not have opportunity to deny the same in oral evidence and prayed to dismiss the petition.

5. Heard the counsels on either side and records perused.

6. The point for consideration is:

- (1) Whether the documents sought to be produced are to be received or not?

Point:

This is an application to receive documents mentioned in the petition. The evidence on the side of plaintiff has been closed and it is posted for the evidence on the side of the defendants. The petitioner has filed affidavit stating that he has misplaced the documents, which has been traced out only now. I don't find any reason to disbelieve the reason stated by the petitioner in the affidavit. The right of the party to adduce evidence to substantiate his case cannot be curtailed and the respondent/plaintiff has every opportunity to cross examine the petitioner/defendant. I am of the view that if the documents are not received, it may prejudice the petitioner. Hence this petition deserves to be allowed.

In the result, this petition is allowed and the documents are received subject to proof and relevancy.

Dictated by me, directly typed by steno-typist into computer, corrected and pronounced by me in the open Court, this the 3rd day of July, 2020.

II Additional Judge
City Civil Court, Chennai.

Draft/Fair: Order
I.A.No.2/2019 – in
O.S.No.10751/2010
Dated: 03.07.2020