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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CS(OS) 1344/2014

HIM ALLOYS & STEELS PVT LTD & ORS Plaintiffs

Through: Mr. Vikas Chhabra, Advocate (M:
9650506624).

versus

PUNJAB AND SINDH BANK Defendant

Through.: Mr. Lokesh Bhola and Ms. Harshita
Agarwal, Advocates (M:
9761763198).

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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14.03.2019

I.A. 6699/2018 (to take on record additional documents filed by the defendant)

1. This is an application filed by the Defendant seeking to place on record some additional documents. The said documents are mentioned in para 3 of the application and are as under:-

“3. In this regard it is submitted that the Applicant/ Defendant Bank desires to file the following documents:

- (i) General Power of Attorney of Mr. Parvinder Singh Sawhney marked as **Annexure-1.***
- (ii) Statement of accounts of all the Plaintiff Companies marked as **Annexure-2 (Colly).***
- (iii) Relevant extracts of circular dated 29.05.2012 marked as **Annexure-3.***
- (iv) Relevant extracts of circular dated 31.12.2013 marked as **Annexure 4.**”*



2. The application is vehemently opposed by the counsel for the Plaintiff, on the ground that the Plaintiff's evidence already stands concluded and at this stage it is impermissible for the Defendant to file these documents. It is his submission that the Plaintiff has led the evidence of three witnesses and none of them have had the opportunity to look at these documents and give their testimony in this regard. After closure of the evidence of the Plaintiff, the Defendant ought not to be permitted to steal a march in this manner, by filing additional documents.

3. The Court has perused the documents placed along with the application. Firstly, these documents have also been exhibited in the evidence by way of affidavit filed by Shr. Parvinder Singh Sawhney - DW 1. The First document, i.e., the Power of Attorney in his favour has been exhibited as **Exhibit DW 1/A**. The banks account statements have been exhibited as **Exhibit DW 1/D to Exhibit DW1/H** and the circulars of the Defendant based on RBI circular has been exhibited as **Exhibit DW1/C**.

4. Firstly, the power of attorney of a newly authorised signatory is to be permitted to be taken on record, inasmuch as, the earlier witness is unable to depose on behalf of the Defendant bank, as he has been transferred. Further, Annexure 2 to the application, are the Statements of Account of the Plaintiff Company and are well within the knowledge of the Plaintiff.

5. The issue is about the circulars dated 29th May, 2012 and 31st December, 2013. These circulars were not communicated to the Plaintiff as per the Ld. Counsel, and hence cannot be relied upon today to buttress the case of the Defendant. These circulars have not been pleaded even in the written statement.

6. On the other hand, Ld. counsel for the Defendant submits that the



sanction letters to the Plaintiff, which were issued to the Plaintiff, mentioned that they should be in compliance with the same.

7. There is no doubt that the circulars ought to have been placed on record earlier or at least relied upon in the written statement. The reasons given in the application and in the rejoinder are primarily to the effect that various officers were transferred and it was only at the time of preparation of the affidavit that it was realised that these documents were not placed on record. However, since the Defendant is a public sector bank and these are circulars issued by the Defendant in compliance of the RBI circulars/guidelines, the bank is permitted to rely upon the same in the testimony of its witness subject to payment of Rs.50,000/- as costs to the Plaintiff. Costs shall be paid on or before the next date before the Joint Registrar. The Defendant's witness shall be subject to cross examination of all the documents and other averments.

8. Since the additional documents have been taken on record, the Plaintiff is permitted to lead the evidence of one rebuttal witness, if so advised, to deal with the additional documents which have now been filed by the bank.

9. With these observations, the I.A is disposed of and the additional documents are taken on record.

10. List before the Joint Registrar for cross examination of witness of Defendant on 5th April, 2019.

11. List before the Court for review of progress in recordal of evidence on 30th July, 2019.

PRATHIBA M. SINGH, J.

MARCH 14, 2019/MR