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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(OS) 936/2015**

M/S HERO MOTOCORP LTD

.....Plaintiff

Through: Ms. Manmeet Kaur, Mr. Gurtepal Singh and Mr. Jai Dogra, Advocates.

versus

BANK OF BARODA & ANR

.....Defendants

Through: Mr. Ramesh Kumar and Mr. Vikas Pal, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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05.05.2025

I.A. 4059/2025

1. This application is preferred on behalf of the Defendants under Section 151 of CPC, 1908 seeking the following relief:-

"It is, therefore, most respectfully prayed that this hon'ble Court may kindly be pleased to pass appropriate order and direction in regard to the objection raised by the Plaintiff qua certified copies of the documents of which photocopies were filed by the Defendant with written statement."

2. It is averred in the application that the suit is at the stage of recording of Defendants' evidence as evidence of the Plaintiff stands concluded. The trigger for filing this application is that when the case was fixed on 31.01.2025 before the learned Local Commissioner for recording of evidence of DW-1, objection was raised on behalf of the Plaintiff to the certified copies of the documents of which photocopies were filed by the Defendants with the written statement, on the ground that at the stage of evidence, originals or certified copies cannot be placed on record.

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3. Learned counsel for the Defendants submits that in the present case, it is not possible to place on record the originals as the same are lying with the CBI Court at Mumbai. In this light, Defendants have obtained certified copies from the CBI Court as they form a part of the record of the CBI Court and a communication was received that being confidential records involving security, they can neither be sent on summoning, without security arrangements nor the originals can be handed over. Defendants are thus left with no alternative but to place on record the certified copies which are even otherwise permitted in law.

4. Learned counsel for the Plaintiff, on the other hand, hands over a list of documents in a tabular form to illustrate the documents in controversy. It is submitted that documents at Serial Nos.1 to 4 are certified copies and Plaintiff has no objection to the same being tendered considering that the originals are in the CBI Court and also that certified copies can be tendered in evidence. There is, however, serious objection to documents at Serial Nos.5 to 24, except documents at Serial Nos.12 and 22. It is urged that document at Serial No.12 contains pages 38 to 41 which were never filed earlier and are now being introduced. Similarly, document at Serial No.22 earlier contained only one page which is at page 96 of the documents originally filed by the Defendants and now pages 98 to 99 have been filed. Neither of these documents can be taken on record once the Plaintiff's evidence has concluded. Barring these two documents, the other documents from Serial Nos.5 to 24 are photocopies of copies and cannot be tendered in evidence as per law.

5. Learned counsel for the Defendants, on the other hand, submits that Plaintiff never objected to introduction of new documents before the Local

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Commissioner and the only objection was that at the time of settlement of issues, Defendants had not filed originals of the photocopies of certain documents and therefore, at this stage, they cannot produce originals or certified copies. It is also argued that there is no embargo in the Original Side Rules of the Delhi High Court for taking documents at any stage of the suit and in fact, in this very case Plaintiff's documents were taken on record after conclusion of Plaintiff's evidence. Reliance is placed on an order dated 17.05.2022 of the Supreme Court in ***Levaku Pedda Reddamma and Ors. v. Gottumukkala Venkata Subbamma and Ors., Civil Appeal No. 4096/2022*** as also order dated 14.02.2025 by Co-ordinate Bench of this Court in ***M/s Modi Stratford Enterprise Management Private Limited v. Bank of Baroda & Another, CS(COMM) 396/2017***, to support the plea.

6. Heard learned counsels for the parties and examined their submissions.

7. As can be seen from the prayer in the application, extracted in the earlier part of this order, the limited relief sought by the Defendants is to permit the Defendants to tender certified copies of the documents of which photocopies were filed with the written statement. In light of this prayer, documents which were not filed with the written statement cannot be taken on record. Certified copies can be tendered in evidence and accordingly, Defendants are permitted to tender documents at Serial Nos.1 to 4, i.e. Customer Relationship Form of the Plaintiff maintained by the Defendants; Application Form for creation of fixed deposit by the Plaintiff with the Defendants; SDR No.1807143 dated 18.02.2014 issued by the Defendants Bank to the Plaintiff; and SDR No.1807144 dated 18.02.2014 issued by the Defendants Bank to the Plaintiff. Documents at Serial Nos.5 to 24 of the

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table handed over in Court, save and except, documents at Serial Nos.12 and 22 are photocopies of copies and cannot be permitted to be tendered. It will be open to the Defendants to summon the witness with record from the CBI Court, if so advised, at the appropriate stage. It is made clear that the concession of the Plaintiff to permit certified copies of documents at Serial Nos.1 to 4 will be without prejudice to its rights to question the authenticity and the contents of these documents.

8. Insofar the order in ***Levaku Pedda Reddamma and Ors. (supra)*** is concerned, there can be no quarrel with the proposition that rules of procedure are hand-maid of justice. However, the issue arising in the said case was refusal by the High Court to permit the Appellant to produce additional documents in terms of Order VIII Rule 1 CPC. From a reading of the order, it is evident that there was some delay in the said case in filing the additional documents but it is not clear at what stage the documents were tendered. In the present case, Plaintiff's evidence stands concluded after admission/denial of the documents and permitting new documents would inevitably lead to the clock being put back to the stage of admission/denial. The order in ***M/s Modi Stratford (supra)*** is also of no avail to the Defendants as the Court was dealing with an application filed by the Plaintiff for replacement of an FDR as some discrepancy was noticed by the Plaintiff at the time of tendering evidence. The objection of the Defendant was that since the earlier FDR has been exhibited, prayer for replacement could not be allowed. In this light, the Court held that it was apparent that there were two FDRs on record bearing the same number and date as also the amount. Plaintiff was basing its claim on the first FDR which it claimed to have received through courier from the Defendant while the document

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that was filed was copy of the FDR, subsequently provided by the Defendant. Since the FDR sought to be placed on record had the same number and the first FDR was the original FDR while the subsequent one was the forged one, Court permitted the second FDR to be taken on record, holding that this was not a case of replacement.

9. Application is accordingly disposed of in the aforesaid terms.

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10. List before Court on 13.08.2025.

JYOTI SINGH, J

MAY 5, 2025

S.Sharma

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