

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL SUMMARY SUIT NO. 6 OF 2002

Prasar Bharati (Broadcasting Corporation of India) ...Plaintiff
V/s.
Western Co-operative Bank Ltd. ...Defendant.

Ms. Rashmi Naik i/b Anil Agarwal for the Plaintiff.
Mr. Himanshu Takke, AGP for the State

CORAM : ABHAY AHUJA, J.
DATE : 16th DECEMBER, 2024

PC. :

1. At the outset, Mr. Takke, learned AGP appearing for the State submits that in the index to the compilation of documents in serial no. 3, the date should be 6th May, 2024 and not 6th May, 2018.
2. Ms. Naik, learned Counsel appears for the Plaintiff has no objection if the said error is permitted to be corrected.
3. Let the said error be corrected by hand forthwith and initialled by the affiant of the affidavit in the examination-in-chief as well as the learned AGP.

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4. Today the matter has been listed for marking of Defendant's documents.

5. Mr. Dnyaneshwar Ramchandra Dongre, Defendant's witness is present in Court and has been administered oath by the learned Associate of this Court. Mr. Dongre, confirms the contents of the examination-in-chief dated 19th November, 2024 as well as the compilation of documents and affidavit of documents filed in that regard.

6. The document at serial no. 2 is a certified copy of the order dated 4th December, 2018 issued by the District Deputy Registrar, Co-operative Societies (3), Mumbai, Western Suburb Mumbai.

7. Ms. Naik, learned Counsel appears for the Plaintiff and submits that since this is a certified government document, she has no objection if the said document is marked as an exhibit. Accordingly, the said document is marked as **Exhibit D-1**.

8. The document at serial no. 3 is a certified copy of the order dated 6th May, 2024 issued by the District Deputy Registrar, Co-operative Societies (3), Mumbai, Western Suburb Mumbai.

9. Ms. Naik, learned Counsel appears for the Plaintiff and again submits that since this is a certified government document, she has no objection if the said document is marked as an exhibit. Accordingly, the said document is marked as **Exhibit D-2**.

10. This completes the marking of Defendant's documents.

11. Both the learned Counsel for the Plaintiff as well as the learned AGP submit that the same Commissioner be appointed for recording of the cross-examination of the Defendant's documents.

12. In view of the above and at the request of the parties, Mr. Shantanu Sharma, learned Advocate who was earlier the Commissioner in the matter is appointed as Commissioner to record the cross-examination of the Defendant's witness. Advocate Shantanu Sharma's details are as under :-

Name : Mr. Shantanu Manoj Sharma, Advocate
Address : 1101, Raheja Centre, Free Press Marg,
Nariman Point, Mumbai- 400 021.
Contact : 9167293767
E-mail ID : adv.shantanumsharma@gmail.com

13. The learned Commissioner is at liberty to record evidence in accordance with the following:-

(a) The Commissioner is at liberty to exercise discretion under Order XVII Rule 4(4) of the Code of Civil Procedure, 1908, to note the demeanour of the witnesses where necessary.

(b) All cross-examination shall be conducted strictly in question and answer form.

(c) The Commissioner will also be at liberty to direct that the whole or any part of the cross-examination should be video recorded for later reference of the Court. Should that be done, the original audio visual recording will be submitted alongwith the Commissioner's Report to the Registry.

(d) Liberty to the parties as also to the Commissioner to apply in case of difficulty.

(e) All re-examination will be conducted only in Court.

(f) Costs of the commission shall be borne equally by the parties.

(g) Parties shall also pay costs of Rs.500/- per hearing to the Court Clerk who attends the commission with Court Papers. This is required since these clerks attend the commission in addition to their regular duties and outside their normal working hours.

(h) The Commissioner is not to permit any applications for adjournment on dates previously fixed, except where absolutely unavoidable. Counsel's inconvenience or unavailability does not constitute such unavoidability."

14. Let the learned Commissioner endeavour to complete the cross-examination of the Defendant's witness and submit his report by 17th February, 2025.

15. List on 17th February, 2025.

(ABHAY AHUJA, J.)