

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

SUIT NO.634 OF 2005

M/s. The Prag Bosimi Synthetic LimitedPlaintiffs

Vs.

The New India Assurance Company LimitedDefendants

Mr. Ajay Panicker for plaintiffs.

Mr. Rahul Narichania, senior advocate a/w. Ms. Aditi Pawar and Ms. Sneha B. Pandey I/b. M/s. Motiwalla and Co. for defendants.

CORAM : K.R.SHRIRAM, J.

DATE : 28th SEPTEMBER 2018

P.C.:

1 Mr. Narichania states that the evidence affidavit of defendants' first witness affirmed on 15th November 2017 had been tendered to the Court and a copy was served upon plaintiffs and there is a mention to this affidavit in the order dated 3rd April 2018. Mr. Narichania states that this affidavit was returned to defendants because it was notarised and therefore, defendants prepared a fresh affidavit dated 26th September 2018 and had that affirmed before the Associate of this Court. Mr. Narichania states that the contents are identical and therefore, the Court may proceed on the basis that there is no affidavit dated 15th November 2017. Mr. Panicker in fairness agrees with Mr. Narichania. Mr. Narichania states that within one week from today, defendants will also file their list of witnesses and serve a copy thereof upon plaintiffs' advocate. Statement accepted.

2 Defendants' first and second witness are present in Court.
Evidence of defendants' first witness is being recorded.

Name : Inder Chadha (DW-1)

Age : 67 years

Occupation : Surveyor/Loss Assessor

Address : 8 Chapel Road, Hastings, Kolkata – 700 022

on S.A.

Examination-in-chief by Mr. Rahul Narichania for defendants.

I say that I have filed two affidavits in lieu of examination in chief one affirmed on 26th September 2018 and the other (additional affidavit) affirmed on 28th September 2018. I identify my signature in both the affidavits.

P.C.: The affidavits are taken on record and marked **Exhibit D-1/1** and **Exhibit D-1/1A**, respectively. Defendants have filed a compilation of 54 documents of which three documents at serial no.19, 21 and 30 are documents which are being introduced through DW-1. Mr. Panicker states that these documents can be received in evidence subject to proof of truth of its contents and liberty be given to plaintiffs to cross examine the witness.

Both counsel state that the document at serial no.21 is already received in evidence through plaintiffs as Exhibit P-6 and therefore, it need not be marked again.

Therefore, the documents at serial no.19 and 30 are received in evidence and marked **Exhibit D-1/2** and **Exhibit D-1/3**, respectively subject to proof of truth of its contents and cross examination.

Stand over to 4th October 2018.

(K.R. SHRIRAM, J.)