



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 8062 of 2024

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M/S NIRMA LTD.
Versus
M/S JAI AGENCIES & ORS.

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Appearance:
MR NV GANDHI(1693) for the Petitioner(s) No. 1
for the Respondent(s) No. 1,2,3,4,5,6,7

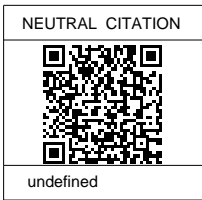
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CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE

Date : 09/05/2024

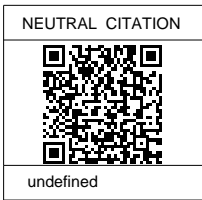
ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL)

1. This petition is directed against the order dated 18.04.2024 passed by the Commercial Court in Commercial Civil Suit No.625 of 2020 (Original Civil Suit No.85 of 2005), rejecting the application Exh.367 filed under Order XI, Rules 12 and 14 of the Code of Civil Procedure.
2. By means of the said application, the plaintiff sought for production of certain documents, which according to it are in the custody of the defendant. It is stated in the application that a defendant is a partnership firm.

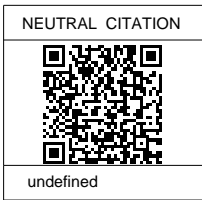


The plaintiff has issued notice on 16.01.2024 for production of documents and list at Exh.328/25 before the trial Court. The defendant did not comply with the notice nor any reply has been given. It is stated that the original documents list at Exh.103, which are issued by the defendant at the relevant point of time to the plaintiff and all the documents, office copies are in the possession of the defendant. The said documents are necessary to reveal the truth of the transactions between the parties for the purpose of the present case.

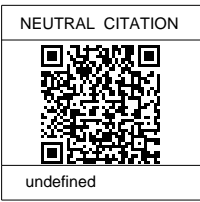
3. It was contended that the original debit and credit note, which are issued by the plaintiff at the relevant point of time to the defendant are reflecting in the accounts of the plaintiff and the office copies of the said debit and credit note at Exh.103 are with the defendant. The contention is that office copies of such documents are in the possession and they are required to be produced by the defendant to tally the same.
4. In contest the defendant took the stand that it is for



the plaintiff to produce the documents which are the basis of the suit. The trial Court on appreciation of the material on record and taking note of the provisions of Sections 101 and 103 of the Evidence Act has recorded that the burden lies on the plaintiff to prove his case if he relies on any document then it is required to be proved by him. In the application itself, the plaintiff had stated that he has produced all the original documents at list Exh.103 which are issued by the defendant at the relevant point of time to the plaintiff. The original debit and credit notes are issued by the plaintiff at the relevant point of time to the defendant and the said debit and credit notes entry reflecting in the plaintiff's final account and the office copies of the same are produced by the plaintiff with Exh.103. The original covering letter are also produced by the plaintiff at Exh.103 so the office copies of all these documents above documents lies with the plaintiff and as per the application of the documents are produced by the plaintiff at list Exh.103 in the evidence.



5. The result is that once the plaintiff has produced certain documents, he is required to prove them. However, by moving an application before the trial Court, asking for the trial Court to force the defendant to produce the office copies of the documents produced by the plaintiff, in essence the plaintiff is trying to get an admission of the defendant. The fact is that the defendant has not admitted the documents produced by the plaintiff at Exh.103 and denial by the defendant cannot be a ground to issue direction to produce office copy of the documents, original of which has been produced by the plaintiff in evidence.
6. It is noted that the plaintiff cannot pressurize the defendant which are produced by plaintiff in evidence and the defendant has an independent right to deny any document on which the plaintiff relies.
7. Noticing the above, we do not find any error in the order passed by the trial Court in rejection of the application, which is found misconceived for the simple reason that the plaintiff applicant was required



to prove his case by production of documents in support of his case. The plaintiff cannot ask the Court to insist the defendant to produce certain documents in order to prove the case of the plaintiff. No error is, therefore, found. The petition under Article 227 of the Constitution of India is dismissed being misconceived.

(SUNITA AGARWAL, CJ)

(ANIRUDDHA P. MAYEE, J.)

SUDHIR