

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 8103 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. 1,2,3,4,4.1,4.2,5

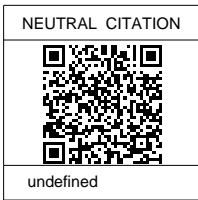
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CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE
SUNITA AGARWAL
and
HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE

Date : 09/05/2024

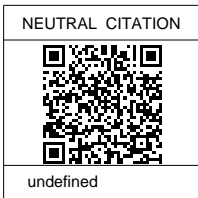
ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA
AGARWAL)

1. This petition has been filed invoking supervisory jurisdiction of the High Court under Article 227 of the Constitution of India to challenge the judgement and 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).
2. The petitioner herein is plaintiff in the aforesaid suit. It seems that an application Exh.368 dated 08.04.2024 had been filed before the Commercial Court making a prayer to exhibit the documents produced by the



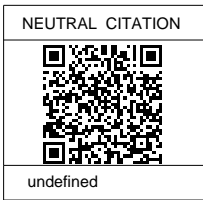
plaintiff at Exh.4, Exh.103 has proved by the plaintiff witness in his examination-in-chief. It is recorded in the order impugned that an objection had been taken by the defendant that the documents produced by the plaintiff are required to be proved as per the Indian Evidence Act at the time of plaintiff's Chief examination and the application had been filed by the plaintiff after completion of cross-examination, which would result in *do novo* trial of the case. It was also asserted that in absence of exhibiting the documents, the defendant has not cross-examined the plaintiff hence the said documents and the application, accordingly, is required to be dismissed.

3. A finding has been returned by the trial Court to the extent that on perusal of the examination-in-chief at Exh.308 and documents produced by the plaintiff at the list Exh.4 and Exh.103 in the case, it was evident that the documents list produced at Exh.103 have been exhibited at Exhs.125 to 300 and the other documents produced at list Exh.103. In the



application moved by the plaintiff, he has simply made a mention of two lists that is Exhs.4 and 103, but has not specified as to which documents are required to be exhibited in the present case.

4. The trial Court has, thus, proceeded to reject the application being misconceived as there is no specific prayer for exhibiting the documents.
5. Noticing the above, suffice it to record that the documents produced by the plaintiff have to be exhibited as per the procedure prescribed in the Indian Evidence Act, on examination-in-chief, and cross-examination of the plaintiff, which from the impugned order, seems to be over.
6. Be that as it may, there is no clarity in the application appended at Page No."25" of the paper book as to why the petitioner/plaintiff was required to move such an application, inasmuch as, the documents are not exhibited on the application of the plaintiff.
7. We find substance in the finding recorded by the trial Court that the application is vague and apart from



mentioning the two lists i.e. Exh.4 and Exh.103, the petitioner/plaintiff has not specified as to which document has been proved by him during the course of examination, but, has not been exhibited. There is no such clarity in the instant petition itself as well. The learned counsel for the petitioner/plaintiff could not demonstrate the said fact before us. Moreover, it is open for the plaintiff to prove the documents produced by him during the course of examination, which according to the learned counsel for the petitioner, is still going on.

8. In the above, the instant petition is dismissed being devoid of merits.

(SUNITA AGARWAL, CJ)

(ANIRUDDHA P. MAYEE, J.)

SUDHIR