

IN THE COURT OF SMALL CAUSES, MUMBAI

ORDER BELOW EXHIBIT NO.66

IN

L.C. SUIT NO.210/249 OF 2013

New India Assurance Company Limited]...Plaintiff.

V/s.

Edelweiss Financial Services Limited]
(Formerly known as Edelweiss Capital Limited)]... Defendant.

Navdeep Vora & Associates, Ld. Advocate for the Plaintiff.
M/s. Thakore Jariwala & Associates, Ld. Advocate for Defendant.

Coram :- Shri S. A. Gawai, Judge
C. R. No.20
Date : 11/08/2022

ORAL ORDER

This is an application filed by the plaintiff for permission to file the certified copy of Power of Attorney (in short the 'POA') dated 15/07/2021. The application was strongly opposed by the defendant by filing reply (Ex.68).

2. Perused the application and the reply. Went through record of the case. Heard both Ld advocates for the respective parties at sufficient length.

3. The plaintiff contends that, by virtue of order dated 04/01/2022, the plaintiff was allowed to take back the original POA dated 27/11/2020 and to file certified copy of the same on the record. However, in view of the short comings pointed out by the

defendant, the plaintiff is desirous to produce the certified copy of the POA dated 15/07/2021. The original POA was filed in the Hon'ble City Civil Court bearing Suit No.1706 of 1985.

4. The defendant contends that, the plaintiff filed affidavit of evidence of Chief Manager (Ex.57) along with list of documents (Ex.58). However, later on, moved application (Ex.59) for returning the original POA dated 27/11/2020 on the ground that, the same is required to be produced in another matter. The plaintiff was permitted to withdraw the POA with directions to produce the certified copy of the same on record. However, in stead of the producing the certified copy of the said POA, the plaintiff produced certified copy of another POA dated 15/07/2021 and the same is not permitted in view of the order passed by this court dated 04/01/2022.

5. It is seen from the order dated 04/01/2022 that the original POA dated 27/11/2020 was directed to be returned to the plaintiff subject to production of certified copy of the same on record before receiving it back. The said order was passed under Rule 9 of Order XIII of Code of Civil Procedure, 1908. Thus, the plaintiff was directed to produce the certified copy of the POA before taking the original from the record.

6. By the present application, the plaintiff wants to produce the certified copy of another POA dated 15/07/2021 in his evidence. Thus, production of the certified copy as per the directions of the court of the document which was to be received back by the plaintiff

and the production of the document i.e. POA in the evidence is different. The defendant has opportunity to challenge the authenticity and the admissibility of the POA in cross examination. Therefore, the production of the document will have to be allowed. Hence, I pass the following order;

ORDER

1. The application is allowed.
2. Permission to produce the certified copy of POA dated 15/07/2021 is granted to the plaintiff accordingly.
3. Costs in cause.

Date : 11/08/2022

(S. A. Gawai)
Judge, C. R. No.20