

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2015

CORAM:

THE HONOURABLE MR. SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

O.S.A. No.113 of 2014

M/s. Innovativ Dezines
represented by its Partner
Mr. Riaz Razzack
No.10/11, Rutland Gate, 5th Street
Nungambakkam, Chennai 600006.

...Appellant

vs.

1. M/s. Wooltop Design Private Limited
F72, Anna Nagar East
Opposite Chintamani Super Market
rep. by its Director Mr. N. Jayaraman.
2. Mrs. A.D. Subapradha
3. Mr. Riaz Razzack
4. Ms. Rafia Razzack
5. Mrs. A. Sreedevi
6. Mr. Baranidharan

...Respondents

Prayer: Original Side Appeal filed under Order XXXVI, Rule 1 of Original Side Rules read with Clause 15 of the Letters Patent, to set aside the order and decree dated 03.04.2014 passed by the learned Single Judge, in A. No. 1827 of 2013 in C.S. No. 195 of 2013 on the file of this Court.

A.No.1827 of 2013 in C.S.No. 195 of 2013:

Application filed under order XIV Rule 8 of the Original Side Rules of the High Court read with Order VII Rule II of the Code of Civil Procedure, seeking an order to reject the plaint, pertaining to the said suit.

For Appellant : Mr. P.S. Raman, Sr. Counsel
M/s. BFS Legal

For Respondents : Mr. Vijay Narayan, Sr. Counsel
for M/s. M. Vidya for R1

J U D G M E N T
(Made by The Hon'ble The Chief Justice)

We have heard the learned counsel for the parties.

2. We are of the view that the application under Order 7 Rule 11 of the Code of Civil Procedure, 1908, (hereinafter referred to as 'the Code') filed by the appellant/first defendant in the suit could not have been maintainable, for the reason that there are undisputedly certain prayers, which are not affected by the plea of bar of Section 15(2) of the Copyright Act. There cannot be a piecemeal adjudication of an application for rejection of the plaint.

3. Learned senior counsel for the appellant, faced with the situation, seeks to withdraw the appeal with liberty to raise all pleas on merits, as may be available in accordance with law in the written statement to be filed within four weeks from today.

4. It is also agreed that the interim arrangement at present requiring the appellant to file quarterly accounts would continue as the final interim arrangement in the suit and the application for interlocutory relief would stand disposed of in terms thereof (O.A.Nos.190 and 191 of 2013 in C.S. No.195 of 2013).

5. The suit would now itself proceed to trial subject to the right of the appellant to move any other application, as may be advised and feasible, which may be a bar to the maintainability of the suit, which would be examined by the learned single Judge, if so moved, on its own merits, subject to the defences of the first respondent/original plaintiff.

6. The appeal stands dismissed as withdrawn, in terms aforesaid, by consent. Trial expedited. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ATR

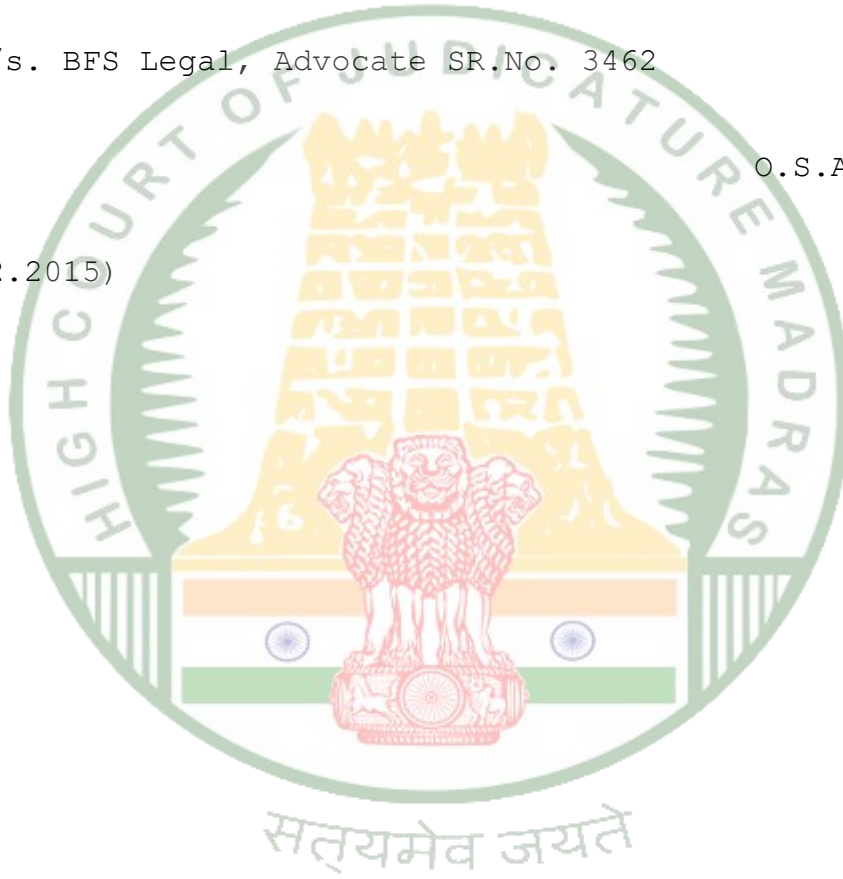
To

The Sub Assistant Registrar,
Original Side,
High Court,
Madras.

1 CC to M/s. BFS Legal, Advocate SR.No. 3462

O.S.A. No.113 of 2014

JSV (CO)
PSI (03.02.2015)



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