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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2015

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE  
and  
THE HON'BLE MR. JUSTICE M.M.SUNDRESH

O.S.A.No.16 of 2015

BSA-Regal Group Limited  
Speedwell House  
West Quay Road,  
Southampton, SO 15-IGY,  
England

.. Appellant

versus

Tube Investments of India Limited  
represented by its Vice-President-Legal and  
Company Secretary Mr.S.Suresh  
Dare House 234, NSC Bose Road  
Chennai 600 001.

.. Respondent

Appeal filed under Order 36 Rule 1 of Original Side Rules read with Clause 15 of the Letters Patent Act, against the decree and Judgment dated 29.10.2014, passed in A.No.364 of 2012 in C.S.No.706 of 2011, on the file of this Court.

For Appellant .. Mr.Kasthuri Rangan  
for M/s.Rights and Marks.

For Respondents .. Mr. P.Krishnamoorthy  
Senior Counsel for Mr.Arun C.Mohan  
for Caveator

J U D G M E N T

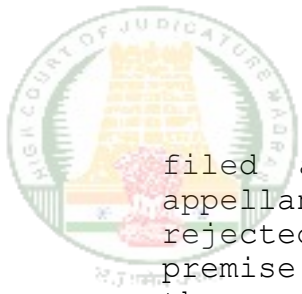
(Judgement of the Court was delivered by The Hon'ble Chief Justice)

Admit.

2. Learned counsel for the respondent accepts notice.

3. At the request of the learned counsel for the parties, the appeal is taken up for final disposal.

4. In the suit filed by the respondent, proceedings at interlocutory stage had been taken right till the Honourable Supreme Court. There is an injunction order enuring to the benefit of the respondent. In such eventuality, the appellant possibly could have



filed a counter claim as an appropriate remedy. However, the appellant has chosen to file a separate suit and the plaint has been rejected under Order VII Rule 11 of the Civil Procedure Code on the premise that there is an earlier suit filed by the respondent and there are certain observations made in the orders passed while deciding the interlocutory applications.

5. In our view, the aforesaid cannot be a ground for rejecting the plaint, as it is not covered by any of the parameters set out in Order VII Rule 11 of the said Code. The appropriate course of action would have been to try both the suits together. Naturally no interim relief was available to the appellant as that issue already stood settled in the interlocutory proceedings in the suit filed by the respondents. We are informed that even issues have not been framed in the suit.

6. In view of the aforesaid, it is agreed as under:

- (i) The impugned order be set aside.
- (ii) The respondent will file the written statement and documents within four weeks.
- (iii) The suits are consolidated for the purposes of trial being C.S.No.42 of 2009 and C.S.No.706 of 2011.
- (iv) The trial is already expedited as per the directions of the Honourable Supreme Court.

7. The original side appeal is allowed in the aforesaid terms. No costs.

Sd/-  
Assistant Registrar  
Dated:26.2.15

True Copy

Sub Assistant Registrar

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

+1 cc to M/s.Arun C.Mohan, Advocate, SR.5187

+2 cc to M/s.Rights and Marks, Advocate, SR.4826.

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