

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.10.2016
CORAM
THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN
S.A.No. 279 of 2008
& M.P. 1 of 2008

G. Selvaraj

...Appellant/Defendant

Vs.

O.P. Wilson

...Respondent/Plaintiff

Prayer:- This Second Appeal is filed under Section 100 of Civil Procedure Code against the judgment and decree dated 12.10.2006 made in A.S.No. 46/2006 on the file of the Court of the Subordinate Judge of the Nilgiris at Uthagamandalam, confirming the judgment and decree dated 16.03.2003 made in O.S.No. 89/2001 on the file of the Court of the District Munsif at Gudalur.

For Appellant : M/s.K.P.Jotheeswaran

For Respondents: M/s.V.Manohar

JUDGMENT

This appeal was filed by the defendant against the judgment and decree passed against him granting injunction in favour of the plaintiff.

2. Having failed before both the courts the present appeal is filed. When the matter came up for final hearing on 26.09.2016, the counsel for the appellant has reported before the Court that the matter has been settled between the parties. However, no written information has been filed and he sought time. Hence the matter was adjourned "for reporting settlement".

3. Today, when the matter was called, the counsel for the appellant has filed a memo which reads as follows:-

"1. It is respectfully stated that during the 3rd week of September 2016, the above S.A was included in the ready list for final hearing. Immediately, we have sent a letter dated 16.09.2016 to the Advocate of the appellant in the Court below and copy to the

appellant, informing them about the inclusion of the S.A. in ready list for final hearing. On receipt of the said letter, the Advocate of the appellant in the Court below has contacted us over phone and informed that the appellant had met him 6 months back and orally informed that the subject matter of the above S.A. has been amicably settled between him and the respondent out of Court. He has also informed that he shall contact the appellant and advise him to send a written information to us about the settlement. But, the appellant has not given any instructions to us to either withdraw the above S.A. as settled out of Court or to argue the same, till this date.

2. It is respectfully stated that in the above circumstances, once again, we have sent a letter dated 20.10.2016 by RPAD to following address given by him :

"Sri. G.Selvaraj,
S/o. Govindan,
6/119-B, Kolapally & Post,
Pandalur Tk., The Nilgiris District".

However, he has not given any instructions to us to either withdraw the above S.A. as settled out of Court or to argue the same, till this date. Hence, we cannot proceed with the final hearing of the above S.A. for and on his behalf. Therefore, we are reporting "No instruction" before this hon'ble Court. In these circumstances, in view of the decision of the Hon'ble Supreme Court, it is just, proper and necessary to send a Notice in the S.A. to the Appellant through Court."

WEB COPY

4. This Court is not inclined to keep this matter any further, in view of the facts disclosed by the learned counsel for the appellant in his memo. Hence the second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Subordinate Court,
The Nilgiris.

2. The District Munsif Court,
Gudalur.

copy to

The Section Officer
VR Section
High Court Madras

+1 cc to Mr.K.P.Jotheeswaran Advocate sr 61156

S.A.No. 279 of 2008
& M.P. 1 of 2008

rv(co)
aa22/11/2016

सत्यमेव जयते

WEB COPY