

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

O.S.A. No.448 of 2011

M/s.Monotech Systems Limited
Rep. By its Managing Director,
Mr.T.P.Jain. ... Appellant/Plaintiff

-vs-

1.M/s.Jai Badr Vishal Graphix
2.Divesh Gupta
3.Manish Gupta
4.Sujeet Jain
5.PRabhat Jain
6.Anita Gupta ... Respondents/Defendants

Appeal filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of the Letters Patent against the order dated 15.11.2011 made in O.A.No.921 of 2010 in C.S.No.715 of 2010 on the original side of this Court.

For Appellant : Mr.Abdul Razack

For Respondents : No appearance for RR 3 & 6

J U D G M E N T

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

The appeal has become infructuous, as the amount against which injunction was sought and was stated to be then lying in the bank has since been withdrawn.

2.We may, however, note that the impugned order is predicated on a plea that the appellant had earlier filed Application No.4424 of 2010 seeking furnishing of security failing which attachment of two bank accounts should be granted and thereafter, filed the second application, O.A.No.921 of 2010

under Order 39 Rules 1 and 2 of the C.P.C. seeking an injunction against the same account. Notice had already been issued in the first application and the learned Single Judge found that filing of the second application was a misuse of process of Court and thus, dismissed the application with costs of Rs.10,000/-.

3. On hearing the learned counsel for the appellant, we find that the appellant had disclosed the factum of filing of the earlier application. Since no security was furnished, the second application was filed though really speaking there was no need of the second application as the prayer was comprehensive enough in the first application to cover the consequences of not furnishing of security by seeking attachment of the bank account. No doubt, the second application was superfluous, but we do not agree with the finding that it was a misuse of process of Court or that consequently, the appellant must suffer costs for the same.

4. We, thus, set aside the impugned order while disposing of the appeal as infructuous. Consequently, M.P.No.1 of 2011 is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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

+1 CC to M/s. Razhaq Associates, Sr.No.52922

O.S.A.No.448 of 2011

SKV (CO)
MD : 22/09/2016

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