

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2016

CORAM

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

O.S.A.Nos.12 and 13 of 2016
and
CMP.No.1739 of 2016 in O.S.A.No.12 of 2016

Sun Petroleum,
No.51, Armenian Street,
Opp. Catholic Centre,
Chennai-600 001
And also at
No.24/25, SSE Padma Apartments,
4th Floor - D Padmavathy street,
Gopalapuram, Chennai-86,
rep. by Bhagwan Kishore Gwalin. ... Appellant in both
appeals/Defendant

vs

- 1.Castrol Limited,
Burmah Castrol House,
Pipers Way, Swindon,
Wiltshire, SN 3 1RE United Kingdom,
rep. by its Constituted Attorney.
- 2.Castrol India Limited,
781-785, Rayala Towers, V Floor,
Anna Salai, Chennai-600 002, India,
rep. by its Constituted Attorney
Murlidhar Balasubramanian .. Respondents in both
appeals/Plaintiffs

Appeals filed under Order XXXVI, Rule 9 of Original Side Rules read with Clause 15 of Letters Patent against the order made in A.Nos.571 and 572 of 2012 in C.S.No.100 of 2008, dated 21.02.2012 on the file of this Court.

A.No.571 of 2012: This application praying that this Hon'ble court be pleased to allow the plaintiff to file the video CD as document on behalf of the Plaintiff.

A.No.572 of 2012 in CS No.100 of 2008: This application praying

that this Hon'ble Court be pleased to reopen the plaintiff's evidence.

For Appellant .. Mr.H.Manojin
for
Mr.P.N.Swaminathan

COMMON JUDGMENT

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

The appeals are directed against the impugned order dated 21.02.2012 passed by the learned Single Judge.

2. In an infringement action in the suit filed by the respondents, recording of evidence was complete and the suit had to be listed for final arguments when the respondents/original plaintiffs moved an application (A.No.572 of 2012) alleging that the Video CD of search carried out in the office of the appellant was not traceable earlier and the same having been traced out, the persons in relation to the Video CD should be permitted to be brought in as witnesses. No reply was filed in A.No.572 of 2012. The respondents/original plaintiffs have also moved an application (A.No.571 of 2012) seeking to file the Video CD as a document on their side.

3. The learned Single Judge noted the submissions of the learned counsel for the respondents/original plaintiffs that the raid by the Police was pleaded in paragraph 15 of the plaint and the photograph taken at that time was also annexed as plaint document No.20. The learned Single Judge, thus, allowed both the applications.

4. The endeavour of the appellant herein seeking review of the order made in A.Nos.571 and 572 of 2012 also failed, when the review applications (Review Application Nos.1498 and 1499 of 2012) were dismissed on 27.03.2012.

5. We hardly find any reason whatsoever to interfere with the aforesaid impugned orders and obviously, the appeals have been filed only to prolong the issue for the past four years by keeping the appeals pending and on that pretext, the suit not being finally decided, despite being eight years old.

6. The impugned order only permits evidence limited to the aspect of what is recorded at the time of search.

7. The appeals, accordingly, stand dismissed. No costs.
The suit be immediately further processed for listing final disposal.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

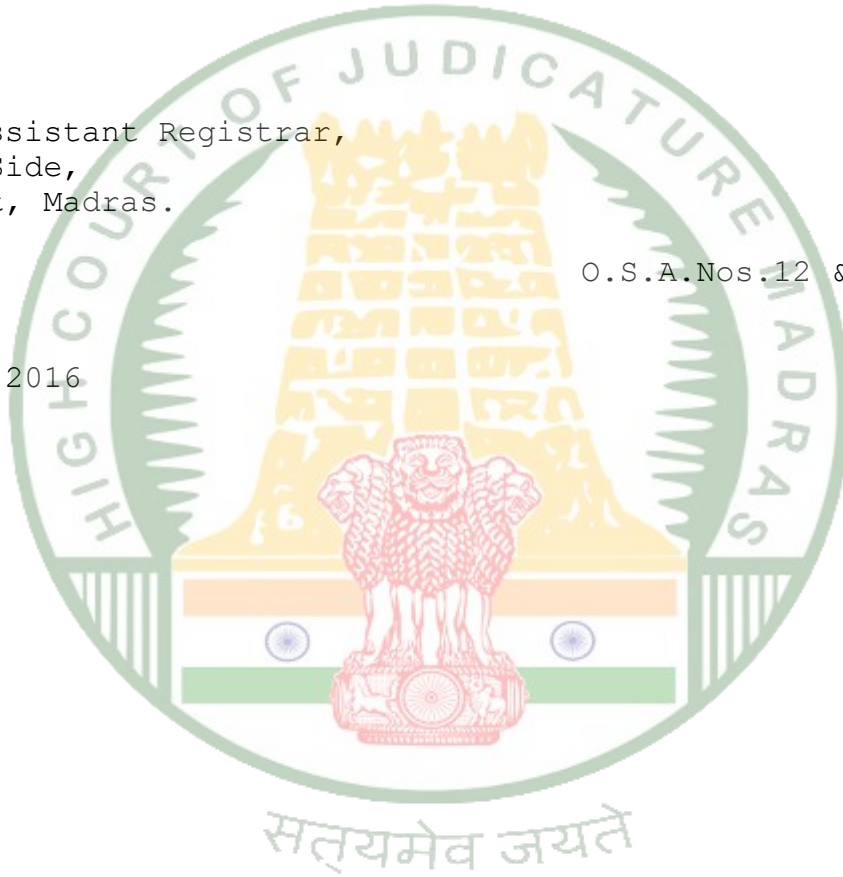
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To

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

O.S.A.Nos.12 & 13 of 2016

ad co
kra 25.02.2016



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