

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

CORAM :

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

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

O.S.A. Nos.204 and 172 of 2016

S.Yeitish .. Appellant in both OSAs.

-vs-

Lokesh Gupta ... Respondent in both OSAs.

Appeals filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of the Letters Patent against the order dated 29.07.2015 passed in O.A.No.481 of 2015 and order dated 28.04.2016 in Application No.1149 of 2016 in O.A.No.481 of 2015 on the file of original side of this Court Original Application praying that their Hon'ble Court be pleased to pass an order of ad Interim Injunction restraining the Respondent his men agents and servants or any person acting for and on behalf of the respondent from using the trademark Ratna Cafe or any other trademark/tradename either per se or in combination with other mark which is identical with/deceptively similar to the trademark Ratna Cafe in respect of his hotel business or any other business, pending disposal of Arbitral proceeding, between the applicant and respondent.

A.No.1149/2016

Application praying that this Hon'ble Court be pleased to pass an order to review the order passed in O.A.No.481 of 2015 dated 29.07.2015 on the file of this Hon'ble court, by allowing his review Application.

For Appellant : Mr.K.M.Vijayan, Sr. Counsel
for M/s.K.M.Vijayan Associates

For Respondent : Mr.P.Giridharan

COMMON JUDGMENT

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

On hearing the learned counsel for parties, we find that there are two apprehensions in the mind of the appellant giving rise to these appeals: (1) the pending contempt proceedings; and (2) the possibility of the Arbitrator being influenced by the orders passed by the learned Single Judge under Section 9 of the Arbitration and Conciliation Act, 1996.

2. Taking up the second aspect initially, we are of the view that there is no reason for any such apprehension for the reason that even if these orders are passed by the learned Single Judge, they are in the nature of interim relief based on a prima facie view of the matter and thus, cannot prejudice the final adjudication before the Arbitrator.

3. On the issue of contempt proceedings, learned counsel for the respondent states that the appellant himself has filed an affidavit before the Arbitrator that they have stopped the business. This is stated to have so occurred, according to the learned counsel, on account of construction work being made near the premises of the appellant which has made the business non-feasible for the time being. There is, at present, no possibility of re-commencement of business.

4. In view of the aforesaid stand of the learned counsel for the appellant, learned counsel for the respondent states that he would not press the contempt petition.

5. The learned Arbitrator would proceed with the matter as expeditiously as possible.

6. Original Side Appeals are, accordingly, disposed of. No costs.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

sra

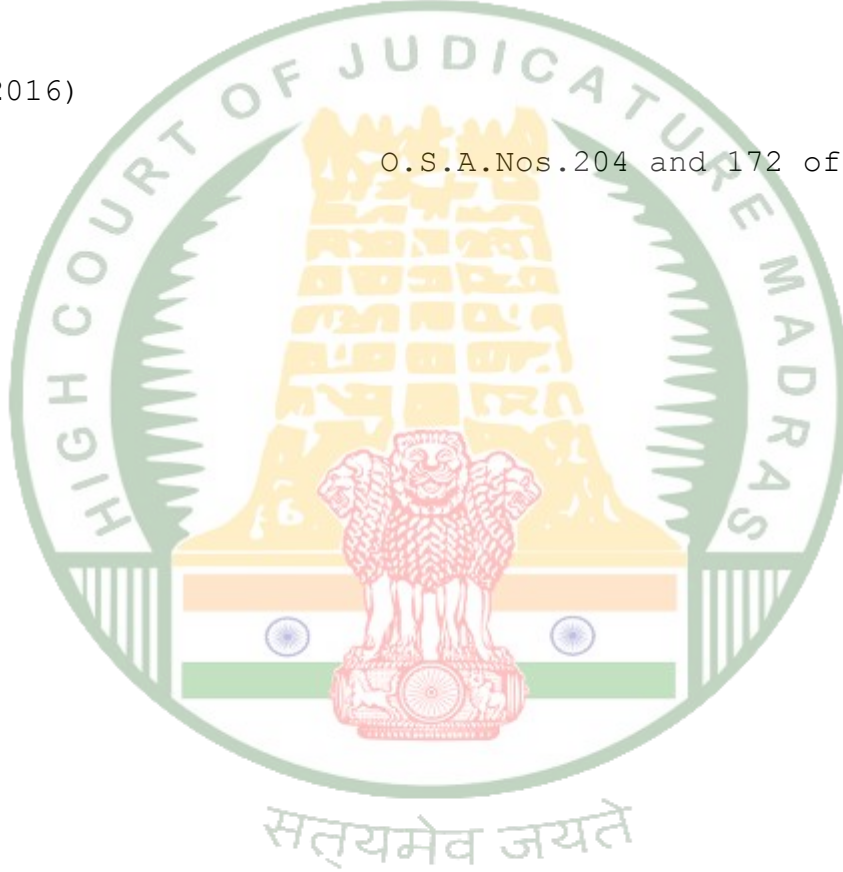
To

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

+lcc to Mr.K. M. Vijayan Associates, Advocate, S.R.No.64715
+lcc to Mr.P. Giridharan, Advocate, S.R.No.64738

sv(CO)
md(21/11/2016)

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