

unconditional leave has been granted to the Defendants to contest the suit. As far as prayer clauses (a) and (b) are concerned, learned advocate for the Defendants state that he has no objection if the Notice of Motion is allowed in terms of prayer clauses (a) and (b). As far as the remaining prayers are concerned, he strongly opposes the Notice of Motion and states that no case either for disclosure of assets or attachment before judgment is made out from the pleadings in the affidavit-in-support.

3 On the other hand, learned advocate appearing for the Plaintiff brings to my attention paragraph 14 of the affidavit-in-support wherein it is averred that Defendant No.1 has sold its registered office at Kalbadevi and which would be enough to prove that the Defendants are in the process of disposing of their assets to defeat or delay the execution of the decree that may be passed against them. It is in this light, that the learned advocate prays for attachment before judgment under Order 38 Rule 5 of the Code of Civil Procedure, 1908.

4 I have heard the learned advocates for parties on this

point. I am not satisfied that the case either for disclosure of the assets or attachment before judgment is made out at this stage. Merely because the Defendants have sold their registered office in the year 2013 and shifted their office elsewhere does not by itself, and with nothing more, entitle the Plaintiff to apply for attachment before judgment or for disclosure of the assets.

5 I must mention here that as far as the disclosure of the assets is concerned, this relief is normally granted after the decree is passed and it is only in exceptional circumstances that this order is passed prior to obtaining the decree. In these circumstances, I find no merit in other prayers that have been pressed before me in this Notice of Motion.

6 In these circumstances, the Notice of Motion is allowed in terms of prayer clauses (a) and (b) which read as under:

- “(a) That the Plaintiffs be permitted to correct the address of Defendant No.1 as stated in the Schedule annexed hereto;
- (b) That the Plaintiffs be permitted to delete the Defendant No.3 from array of the proceedings.”

7 As far as, prayer clauses (c), (d), (e) and (f) are concerned, the Notice of Motion stands dismissed. There shall be no order as to costs.

8 At this stage, I am informed that the hearing of this suit has been expedited by an order dated 11th July, 2014 and the issues have also been framed by order dated 28th July, 2014. Thereafter, certain amendments to the pleadings were allowed. In this view of the matter, the Plaintiff is directed to file its affidavit-of-evidence within a period of three weeks from today.

(B. P. COLABAWALLA, J.)