

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.01.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE N. AUTHINATHAN

O.S.A.No.349 of 2013
and M.P.No.1 of 2013

Messers.Rane Axle and Pressing Private Limited,
Plot No.310, Sector XVII
PCNTDA BHOSARI
Pune - 411026

Appellant/Defendant

Vs

Messers Rane Holdings Limited,
represented by its Secretary C. Siva,
"Maithri", 132, Cathedral Road,
Chennai - 600 086

Respondent/Plaintiff

Appeal filed Under O.36 R.9 of Original Side Rules read with clause 15 of the Letters Patent against the Order of the learned Single Judge of this Court made in Application No.3119 of 2012 dated 22.07.2013 in C.S.No.532/2010.

For Appellant : Mr.SP. Chockalingam

For respondent : Mr.K. Harishankar

सत्यमेव जयते

JUDGMENT

[Judgment of the court was delivered by S.NAGAMUTHU, J.]
The defendant in C.S.No.532 of 2010 is the appellant herein and the plaintiff in the suit is the respondent herein.

2. Admittedly the plaintiff has got a trade mark "RANE" which it has been using from 1929 and registered on 23.08.1981. In the said suit, the defendant has taken up a plea that he has also got a registered trade mark as "RANE". Now, as per Trade Mark Act, since there is a dispute regarding the validity of the subsequent registration of Trade Mark of the defendant, an

application has been filed by the plaintiff before the Intellectual Property Appellate Board for rectification and the same is pending. If that be so, the plaintiff filed an application in O.A.No.3119 of 2012 before the learned Single Judge, seeking for stay of the suit in terms of Sec.124 of the Trade Mark Act, 1999. The matter was adjourned by three months by the learned Single Judge by Order dated 22.07.2013.

3. We have heard the learned Counsel for the appellant and the learned counsel for the respondent. We have also perused the records carefully.

4. There is no controversy before us in respect of the registration of the Trade Mark of the defendant/appellant. A dispute is pending before the Intellectual Property Appellate Board. Therefore, in terms of Sec.124 1 (b) (ii) of the Trade Marks Act, the learned Single Judge has adjourned the application in A.No.3119 of 2012 by order dated 22.07.2013.

5. However in our considered view, the learned Single Judge ought to have stayed the proceedings in view of the provisions contained in Sec.124 1 (b) (i) of the Trade Marks Act. In view of the said specific provision, we do not find any merit in the appeal. Hence the appeal is dismissed. No costs. Consequently, connected MP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Sub Assistant Registrar,
(Original Side),
High Court, Chennai.

+1 cc to Mr.A.K.Balaji Advocate sr 3121
+1 cc to Mr.K.Harishankar Advocate sr 2870

O.S.A No.349 of 2013

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