

In the High Court of Judicature at Madras

Dated: 21.07.2017

Coram

The Honourable Mr.JUSTICE RAJIV SHAKDHER
and
The Honourable Mr.JUSTICE ABDUL QUDDHOSE

O.S.A.No.200 of 2016

R.Ravinder Kumar

.... Appellant

Vs

M/s.Coronet Constructions
rep. by its Proprietor
A.Mohamad Yaseen

.... Respondent

Appeal filed under Order XXXVI Rule 9 of the O.S. Rules read with Clause 15 of the Letters Patent Act against the judgment and decree dated 20.07.2016, passed in Application No.2681 of 2016 in C.S.No.902 of 2002.

For Appellant : Mr.T.Nirmaleswar

For Respondent : Mr.T.Arockiadass

J U D G E M E N T

(Judgement of the Court was delivered by RAJIV SHAKDHER, J.)

1. This appeal is directed against the judgement and order dated 20.07.2016, passed by the learned Single Judge.

1.1. By virtue of the impugned judgement and order, the respondent/defendant's application being: A.No.2681 of 2016 was allowed. Resultantly, the respondent/defendant's written statement was taken on record. In effect, the respondent/defendant via the said application, has sought extension of time for filing the written statement. There was, admittedly, a delay of 2644 days.

2. After some arguments, counsels for the parties, have agreed that the appeal can be disposed of on the following terms:

i) The appellant/plaintiff will file his replication, within a period of two (2) weeks from today.

ii) The parties will also exchange draft issues within a period of one (1) week of completion of pleadings.

iii) The matter will be listed before the learned single Judge on 10.08.2017 for framing of issues.

iv) The appellant/plaintiff will file affidavit(s) of evidence of the witnesses, he proposes to produce, within two (2) weeks of framing of issues. A copy of the affidavit(s) of evidence, so filed, will be served upon the respondent/defendant.

v) The matter will be posted before the learned Master on 06.09.2017 for cross-examination of the appellant/plaintiff's witnesses.

vi) Immediately, upon completion of cross-examination of the appellant/plaintiff's witnesses, the respondent/defendant will be called upon to file the affidavit(s) of evidence of its witnesses. For this purpose, two (2) weeks time will be granted.

vii) The matter will be placed before the learned Master, once again, for cross-examination of the respondent/defendant's witnesses on 04.10.2017.

viii) Upon the Master completing the exercise of recording evidence, he shall place the matter before Court for arguments, not later than 31.10.2017.

3. The respondent/defendant, in terms of the undertaking given in paragraph 4 of the affidavit dated 21.07.2017, will deposit with the Registrar General of this Court, a Fixed Deposit Receipt (in short, 'FDR') of a value of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) drawn on a Nationalised Bank, within a period of six (6) weeks from today. The FDR will stand credited to the Suit, i.e., C.S.No.902 of 2002.

3.1. Furthermore, the respondent/defendant, as indicated in the affidavit dated 21.07.2017, has consented to the attachment of property situate at R.S.No.266/1, as per Patta R.S.No.266/20, Plot No.8-C, Perambur High Road, Perambur Village, Madras, to the extent of the share of Mr.A.Mohammed Yaseen [Proprietor of the respondent/defendant].

3.2. Undertakings given to the Court by the respondent/plaintiff are taken on record.

4. The appellant shall have the liberty to move an appropriate application before the learned Single Judge for obtaining formal orders of attachment.

5. The parties will abide by the terms of settlement indicated hereinabove.

6. The appeal is disposed of, in the aforementioned terms.

6.1. We make it clear that, if, the respondent/defendant makes any default, then, the defence of the respondent/defendant shall stand struck off without further recourse.

7. However, there will be no order as to costs.

-s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Registrar General
High Court, Madras.
2. The Sub Assistant Registrar
Original Side
High Court, Madras.

+1 CC to Mr.T.Nirmaleswar, Advocate sr 51442
+1 CC to Mr.M.A. Muthalagan, advocate sr 51713.

O.S.A.No.200 of 2016

VD(CO)
sp(08/08/2017)



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