

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

O.S.A. No.102 OF 2010

Jagathambal Traders,
rep. By its Proprietrix,
Mrs.Rajitha Chandrasekaran,
Attur, Salem District : Appellant
Vs.

Annam Steels,
rep. By its Managing Partner,
Vijayakumar,
224, T.H. Road,
Chennai 81 : Respondent

Appeal filed against the Fair and Decree dated 13.07.2009 in
C.S.No.655 of 1999.

For appellant : Notice returned
For respondent : Ms.M.Chitra Gomathy

J U D G M E N T
(made by Rajiv Shakdher, J.)

1. The records show that on 23.11.2016, a memo had been filed by the learned counsel for the appellant stating that he had no instructions. The predecessor Bench had recorded this aspect of the matter and directed the Registry to issue notice to the appellant returnable by 6.12.2016.

1.1 To be noted, when the matter came up for hearing on 28.07.2017, we had noticed this aspect of this case. Furthermore, we had observed that despite a direction, notice had not been sent to the appellant.

1.2. Consequently, the Registry was directed to do the needful in the matter and file a report to that effect.

2. The matter was, resultantly, posted on 18.08.2017. On 18.08.2017, the matter was adjourned to today, for the reason that on that date, service report was still awaited.

3. We are informed that the court notice sent to the appellant has been returned with an endorsement "not sufficient

address".

4. Ms.M.Chitra Gomathy, who appears on behalf of the respondents, says that a conditional order of stay was passed by this court on 19.4.2016, whereby, the appellant was directed to deposit a sum of Rs.6,00,000/- to the credit of the suit, i.e. C.S.No.655 of 1999, within a period of eight (8) weeks from the date of receipt of a copy of the order.

4.1. The learned counsel further says that the said amount has not been deposited by the appellant. A certified copy of the order has been shown to us.

5. The assertion made by the learned counsel for the respondents appears to be correct. The interim order dated 19.4.2010 was conditional. It requested the appellant to deposit a sum of Rs.6,00,000/- to credit of the suit. The order also made it clear that if the amount was not deposited, the interim stay granted shall stand automatically vacated.

6. Needless to say, the interim order as noticed above stood automatically dissolved, in view of the non-compliance of the condition contained therein within the time frame set out therein.

7. In these circumstances, this court has no other option but to dismiss the instant appeal. Accordingly, the appeal is dismissed. There shall, however, be no order as to costs.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Sub Assistant Registrar(O.S), High Court, Madras.

+1 CC to Ms.R.N. Amarnath, Advocate sr 65951.

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PPA(CO)
SP(23/11/2017)