

ORIGINAL APPLICATION NO.563 OF 2018
AND APPLICATION NO.9301 OF 2018

M.GOVINDARAJ, J.

This Court vide order dated 17.09.2018, directed the parties to appear before the Tamil Nadu Mediation and Conciliation Centre attached to this Court on 03.10.2018. However, the respondent has not chosen to appear either before the Mediation Centre or before this Court.

2. When the matter was taken up for hearing on 30.11.2018, learned counsel for the respondent has submitted that the respondent was not well and she was hospitalized. Accordingly, this Court vide order dated 30.11.2018 has observed as follows:

"Learned counsel appearing for the respondent would submit that due to financial crisis, the respondent could not carry out the business and that they have closed the shop. The respondent has also filed a counter affidavit dated 11.08.2018 stating as follows:

" without prejudice to their rights and contentions in the above application and arbitration, the respondents as a gesture of

goodwill has removed the name board which contains the brand name and Trademark of the Applicant (Green Trends Unisex Hair and Style Saloon) and submitting records to prove such fact before this Hon'ble Court and express our ready and willingness to go before mediation centre of this Hon'ble Court to amicably resolve the dispute between the parties."

4. Recording the statement made by the respondent in the sworn affidavit, this Court directed the parties to appear before the Tamil Nadu Mediation and Conciliation Centre attached to this Court on 03.10.2018. However, the respondent has not chosen to appear either before the Mediation Centre or before this Court.

5. Learned counsel for the applicant would submit that even on the date of previous hearing viz., 26.11.2018, the Board was not removed as stated in the counter affidavit filed by the respondent.

6. *Learned counsel for the respondent would submit that for removing the Board, they have to incur a sum of Rs.50,000/-, which is beyond their reach in view of the financial crisis and sought time for removing the same.*

7. *This Court has taken note of the affidavit sworn by the respondent dated 11.08.2018 that they have already removed the Board as a gesture of goodwill. This affidavit sworn by the respondent is false. Therefore, once again this Court directed the respondent to appear before this Court.*

8. *When the matter is taken up for hearing today, the learned counsel for the respondent would submit that the respondent is not well and she is hospitalised. Considering the statement made by the learned counsel for the respondent, this Court directs the respondent to appear before this Court on 04.12.2018 at 10.30 a.m., failing which, order of arrest will be issued."*

3. When the matter is taken up for hearing today, learned counsel for the respondent would represent that they have already removed

the Board. There is no explanation forthcoming for swearing the false affidavit, contrary to facts. This Court has ordered appearance of the parties, failing which, order of arrest will be issued. Despite the order, the learned counsel for the respondent and the respondent have taken it very lightly and report to this Court with supine indifference that the appearance of the power of attorney will suffice the compliance.

4. Learned counsel for the respondent would also argue that the power of attorney, who is none other than the father of the respondent alone appeared before the Mediation and therefore, he is appearing before this Court also. But the learned counsel is totally oblivious of the fact that the respondent Firm is represented by Ms.R.Shwetha, who has sworn the affidavit with false statements. It is not represented by the power of attorney or that the power of attorney has sworn the false affidavit. In such circumstances, any penal action can be taken only against the person, who has sworn the false affidavit. There is no regret on the part of the counsel for non-compliance of the order of this Court nor has he taken the matter seriously and he is totally insensitive of the seriousness of the illegality committed by the respondent.

5. In view of the supine indifference and scant regard shown by the respondent to the orders of this Court, this Court is constrained to issue a non-bailable warrant to secure and produce the respondent before this Court on 11.12.2018.

6. Post this matter on 11.12.2018.

7. Registry is directed to communicate this order through the Commissioner of Police, Bangalore City.

04.12.2018

Note: Issue order copy on 05.12.2018

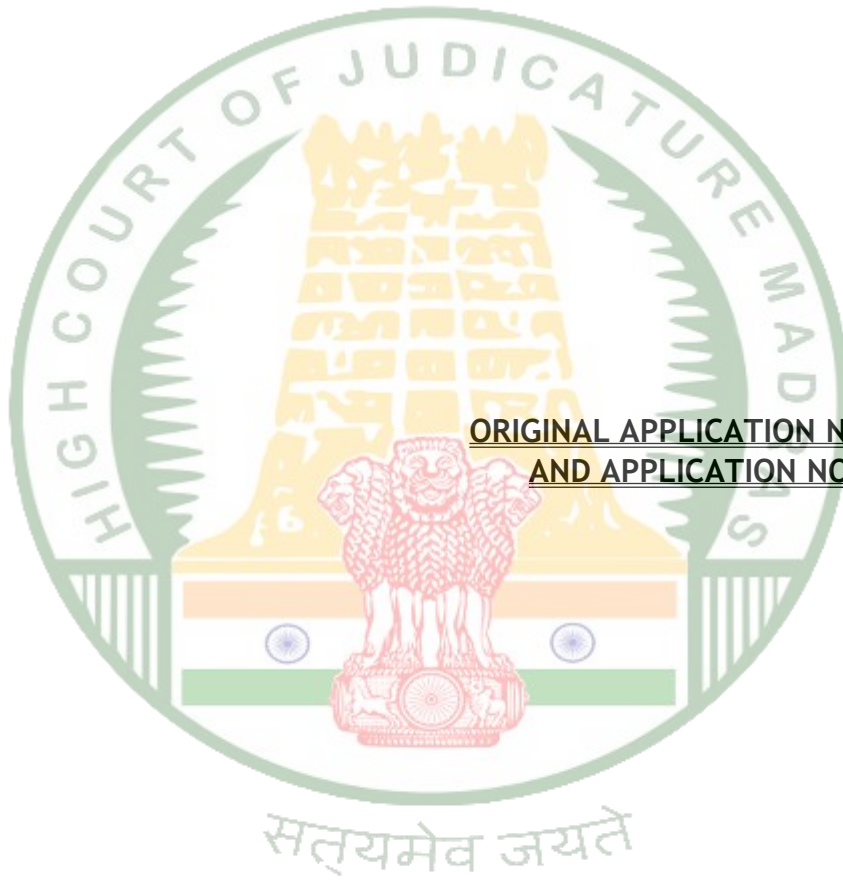
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