

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 30TH DAY OF NOVEMBER 2018

THE HON'BLE MR. JUSTICE M.SUNDAR

A.No.6690 of 2018

in

C.S.No.384 of 2018

Dr.P.Kalidas
S/o.G.Perumal,
Proprietor
M/s.Madhumathii Films
No.622, Thiruvottriyur High Road
Tondiarpet,
Chennai 600 081.

...Applicant/Plaintiff

-Vs-

Mr.V.Sathyamurthi
Proprietor
M/s.Clapboard Production
Plot.No.H, Block.3, Ceebros Shayamala Garden
Arcot Road, Saligramam, Chennai 600 093.

...Respondent/Defendant

Application praying that this Hon'ble Court be pleased to pass an order directing the respondent/defendant to furnish security in respect of the suit claim of Rs.1,55,00,000/- (Rupees One Crore and Fifty Five Lakh only) and be pleased to pass such further or other orders in the circumstance of the case.

This Application coming on this day before this court for hearing the court made the following order:

Sole plaintiff in the main suit is the lone applicant herein and sole defendant in the main suit is the lone respondent herein.

2. This application has been taken out *inter alia* under Order XXXVIII Rule 5 of 'The Code of Civil Procedure, 1908' ('C.P.C.' for brevity). However the prayer is only with regard to a direction to furnish security and there is no further limb of prayer regarding attachment in the event of failure to furnish security, notwithstanding the fact that this application is under Order XXXVIII Rule 5 C.P.C.

3. Be that as it may, parties in the instant application shall be referred to by their respective ranks in the main suit for the sake of convenience and clarity.

4. Mr.A.Prabhakaran, learned counsel on record for sole plaintiff and Mr.P.L.Narayanan, learned counsel on record for sole defendant are before this Commercial Division.

5. After some arguments, learned counsel for applicant/plaintiff submitted that he is not proceeding with the present application and that he is not pressing

the same, but seeks liberty to proceed against the defendant in future, if the plaintiff is able to find any assets of defendant including possible future productions of sole defendant.

6. Saying so, learned counsel for sole plaintiff has made an endorsement in the instant application, which reads as follows:

'Not proceeding with the present application. Hence, permission may be accorded to the applicant/plaintiff to withdraw the App. No.6690 of 2018 with liberty to file a fresh application in respect of forthcoming Movie intended to be released by the rep./defendant'

7. Learned counsel for plaintiff reiterates the aforesaid endorsement.

8. In the light of the aforesaid endorsement and reiteration of the same, this application is closed as not pressed with leave and liberty to the plaintiff to file application/s in future, if the need arises against any assets of the defendant including possible future productions. To be noted, it is made clear that all questions and contentions in the instant interlocutory application as well as the main suit are left open and no

opinion is expressed on any of the contentions of both sides.

9. If the need arises and if the plaintiff chooses to take out an application of the nature mentioned supra in future, the same will be tested on its own merits completely uninfluenced by the instant order as all questions and contentions between the parties are left open.

Application is closed as not pressed.

Sd./- M.S.J.

30.11.2018

//Certified to be a true copy//

Dated this the day of 2018.

DL/12.12.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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