

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 31ST DAY OF AUGUST 2018

THE HON'BLE DR. JUSTICE ANITA SUMANTH

A.No.4812 of 2018

in

A.No.5201 of 2018

in

C.S.No.574 of 2010

M/s. Doshi Constructions,
a partnership firm registered
under the India Partnership Act,
having its registered office at
No.3H, Century Plaza,
No.560, Teynampet,
Chennai 600 018.

Represented by its partner

(*)Mehul H.Doshi

(Amended as per order dt.31.08.2018

in Appl.No.4812/2018)

(& time extended as per dt.24.09.2018)

...Applicant/Plaintiff

(in A.No.4812 of 2018)

-vs-

1. M/s. MEC Internation Private Limited
(Formerly Known as M/s. Madras Electrical Conductors
Private Limited)
No.6 (Old No.37) Arcot Road,
Vadapalani,
Chennai 600 026.

2. Elroi Management Consultant
No.6 (Old No.37) Arcot Road,
Vadapalani,
Chennai 600 026.

3. Dhanam Enterprises
No.6 (Old No.37) Arcot Road,
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4. Unifrieght India Pvt Ltd
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5. Abhirami Enterprises
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6. Joyco India Pvt Ltd
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7. Piyesta Furniture Pvt Ltd
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10. Bell Ceramics Ltd
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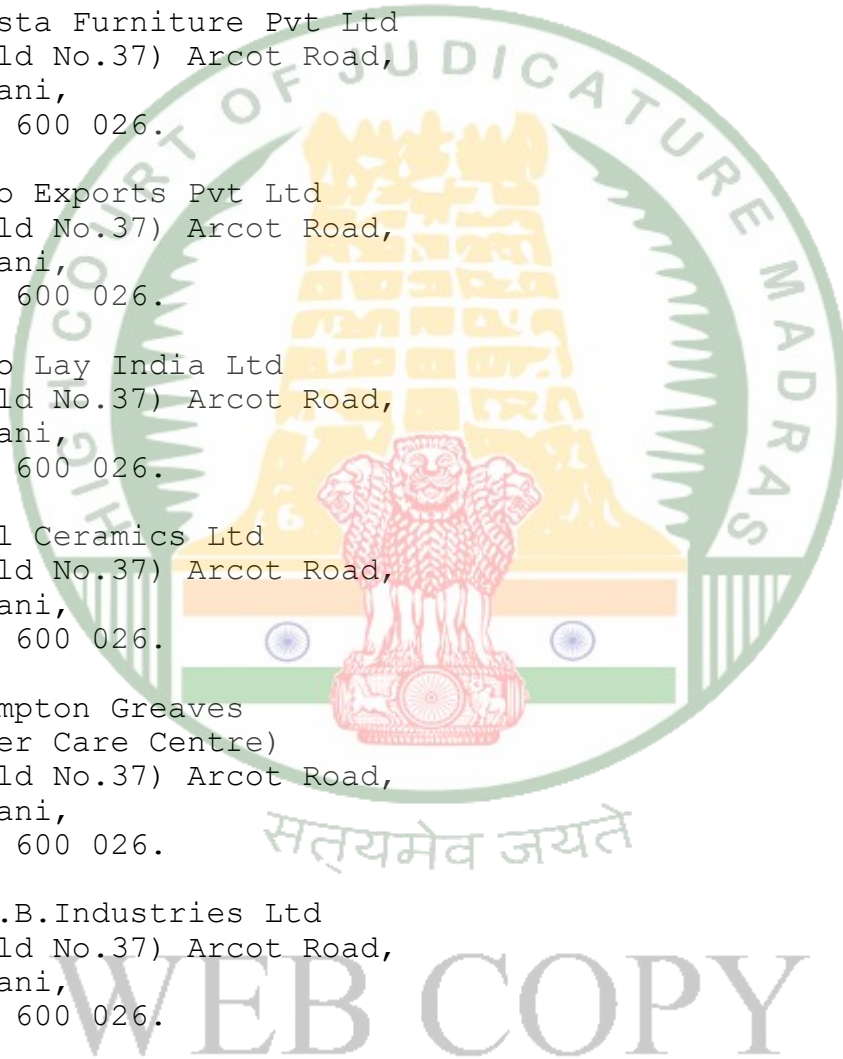
11. Crompton Greaves
(Customer Care Centre)
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12. I.F.B. Industries Ltd
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15. Hawkins Cooker Ltd
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16. Video Jet Technology India Pvt.Ltd
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30. Gepton Car Care
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31. Vijay dresses
No.6 (Old No.37) Arcot Road,
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Chennai 600 026.

32. M/s.Bangalore Iyengar Bankery
No.6 (Old No.37) Arcot Road,
Vadapalani,
Chennai 600 026.

33. M/s. Balaji Bakery
No.6 (Old No.37) Arcot Road,
Vadapalani,
Chennai 600 026.

34. M/s.S.M.S.Bucary Wakf Al Aulad Estate
Represented by its Muthavalli S.M.S.Kalvath Syed Abdul
Khader
No.87/42, Swami Naicken Street,
Chindatripet, Chennai 600 002.

...Respondents/Defendants
(in A.No.4812 of 2018)

A.No.5201 of 2018

1. M/s. Manju Lakshmi Associates
Represented by its Managing Partner
Mr.s.Balasubramanian, M/38 years
No.6 (Old No.37)

Arcot Road,
Vadapalani,
Chennai 600 026.

2. M/s. Supre Cfa
Rep. by its Proprietor
K.s. Ananda Krishnan
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

3. M/s.Ikon Sofa
Rep by its partner
S.Malik
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

4. M/s.Global Clinical Lab
Rep.by its Partner
D.Thangaraj
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

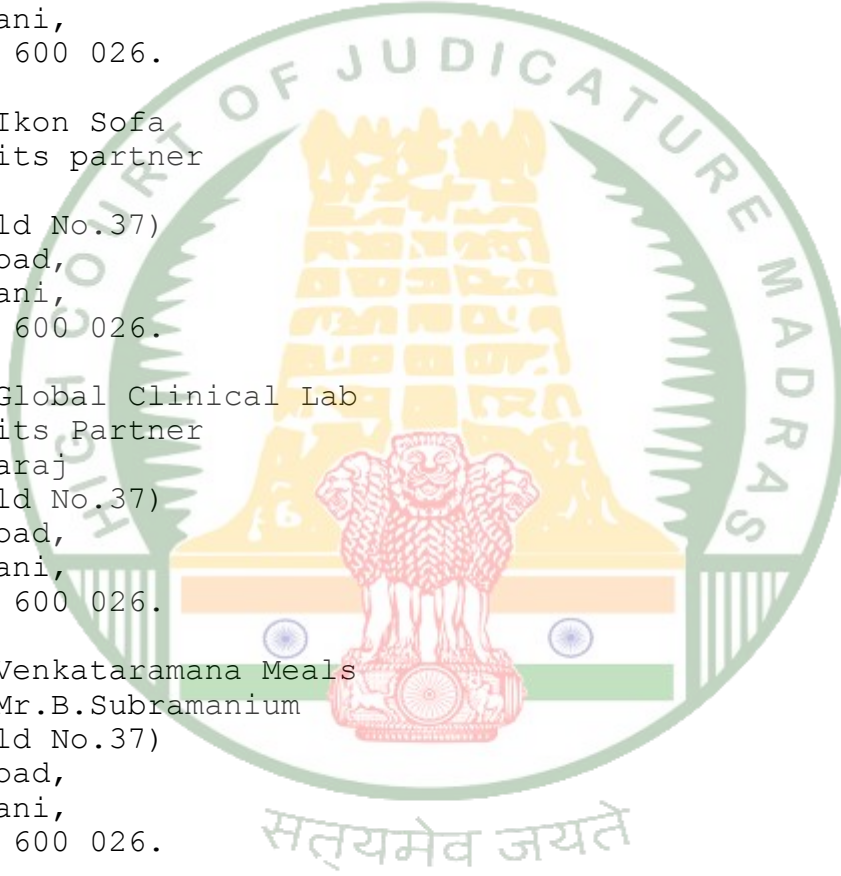
5. M/s.Venkataramana Meals
Rep.by Mr.B.Subramaniam
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

6. M/s.Shree Parmaeswari Enterprises,
Rep.by its Proprietrix
Mrs.M.Varalakshmi
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

7. M/s. best Walk,
Rep. by its Proprietor
Mrs.Fousual Hinaya
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

<https://hcservices.ecourts.gov.in/hcservices/>

8. M/s. Century Neon Signs,



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Rep.by its Proprietor
P.Subramaniam
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

9. M/s. Aswom Enterprises
Rep.by its Proprietrix
Mrs.R.B.K.Rajeswari
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

10. M/s.Aswin Associates
Rep.by its Proprietrix
Mrs.R.B.K.Rajeswari
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

11. M/s. Sri Santhoshi Agencies
Rep.by its Proprietor
K.S.Ananda Krishnan
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

12. M/s. Rekha Sweets
Rep by its proprietor
K.Govindasamy
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

13.M/s. Sri Devi Traders
Rep by s.Sathya Narayana Murthy
No.6 (Old No.37)
Arcot Road,
Vadapalani,
Chennai 600 026.

14. M/s. Namma Unavagam Pvt Ltd.,
Rep by N.Sateesh Kumar
No.6 (Old No.37)
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1. M/s. Doshi Constructions,
a partnership firm registered
under the India Partnership Act,
having its registered office at
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(*)Mehul H.Doshi

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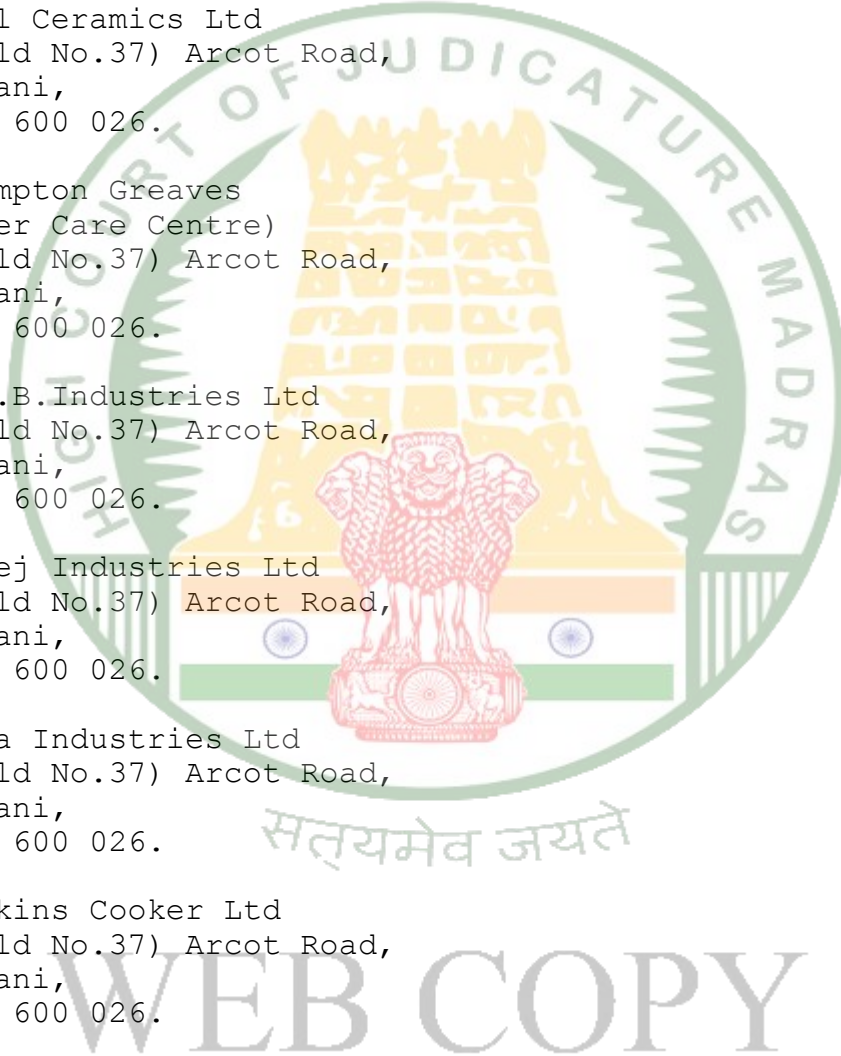
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Represented by its Muthavalli S.M.S.Kalvath Syed Abdul
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No.87/42, Swami Naicken Street,
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...Respondents/Defendants 1 to 34

Application praying that this Hon'ble Court be
pleased to implead the applicant parties as defendants in
C.S.No.574 of 2010.

A.No.4812 of 2018

Application praying that this Hon'ble Court be
pleased to permit amendment of plaint by substituting the
name of the plaintiff Mr.Harshad V Doshi with the name of
Mr.Mehul H Doshi in C.S.No.574 of 2010.

These Applications coming on this day before this
court for hearing, the court made the following order:

<https://hcservices.ecourts.gov.in/hcservices/>

The prayer in A.No.4812 of 2018 is for amendment of
plaint by substituting the name of the plaintiff Mr.Harshad

V. Doshi, who represents the plaintiff/applicant with the name of Mr.Mehul H Doshi, consequent upon the demise of Mr.Harshad Doshi. There is no dispute on the position that Mr. Harshad Joshi, one of the partners of the plaintiff has passed away on 17.04.2018.

2. A counter has been filed to the effect that no registered partnership deed has been produced to evidence the continuance of the partnership post the demise of the partner.

3. It is also contended on behalf of the respondent that no resolution as is statutorily required to be passed upon the demise of the partner or a document reconstituting the firm have been produced.

4. Reference is made by the learned counsel for the applicant to sections 42 and 63 of the Partnership Act 1932. Section 42 deals with dissolution of the firm on the occurrence of certain contingencies. In the present case, it is an admitted position that in terms of the Deed of Partnership dated 01.04.2007 the partnership is one at Will and does not dissolve upon the demise of the partners. Clause (2) of the partnership deed reads as follows:

That the partnership shall come into effect from 01.04.2007 and the duration of the partnership shall be at will: But the death or retirement of any of the parties hereto shall not ipso-facto cause the dissolution of the firm and the surviving partner shall be entitled to continue and carry on the said business in any manner they might choose

5. Per contra, learned counsel appearing for the respondent refers to Section 69 of the Partnership Act, 1932 to state that the non-drawing of a re-constituted

partnership deed pursuant to the demise of Mr. Harshad Doshi would have the effect of nonregistration, which would go to the root of the matter. He relies in this regard to a decision of the Allahabad High Court in the case of *Subhash Chandra Kesarwani Vs. Assistant Registrar, Firm, Societies and Chits*, (CDJ 2003 All HC 186), to the effect

that upon demise of one of the partners, the law requires that a notice be issued to the Registrar of Firms accompanied by the re-constituted deed.

6. In the present case, a communication dated 16.08.2018 has been addressed to the Registrar of Firms intimating it of the demise of the partner, duly received on 23.08.2018.

7. The learned counsel appearing for the respondent, in conclusion does not seriously object to the amendment sought and only prays that liberty be granted to him to raise his objections as recorded above in the course of further proceedings. Liberty is granted.

8. This application is ordered. Amendment to be carried out within a period of 2 weeks from today.

9. List A.No.5201 of 2018 on 12.09.2018.

Sd/.A.S.M.J

31.08.2018

//Certified to be a true copy//

Dated this the th day of 2018.

KY/27.09.2018

COURT OFFICER

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