

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 27TH DAY OF AUGUST 2018

THE HON'BLE MR. JUSTICE M.SUNDAR

A.No.6317 of 2018

in

C.S.No.576 of 2014

Thiru.P.Janakiraman,
Civil Engineering Contractor,
PJR Square, No.8B, 3rd Floor,
Sivashanmugam Street,
West Tambaram,
Chennai 600 045

... Applicant/Plaintiff

-Versus-

1. Government of Tamil Nadu
Highways Department, Represented by
The Superintending Engineer (Highways),
Chennai Metropolitan Development Plan Circle,
Anna Salai, Nandanam,
Chennai 600 035.

2. Government of Tamil Nadu
Highways Department, Represented by
Divisional Engineer (Highways),
Chennai Metropolitan Development Plan Division - 2
Saidapet, Chennai 600 015.

... Defendants/Respondents

A.No.6317 of 2018

Application praying that this Hon'ble Court be pleased to pass an order to set-aside the order dated 16.07.2015 and restore the above suit to file as against the 2nd respondent/2nd defendant in C.S.No.576 of 2014 may not be passed.

This Application coming on this day before this court

for hearing, the court made the following order:

Sole plaintiff is the lone applicant herein. Defendants 1 and 2 in the main suit are respondents 1 and 2 respectively in the instant application. The suit was dismissed against the second defendant for not taking steps and serving suit summons on the second defendant.

2. Learned counsel for plaintiff, who has come by way of change of vakalat, has now taken out this application with the following prayer:

"To set aside the order dated 16.07.2015 and restore the above suit to file as against the 2nd respondent / 2nd defendant in C.S.No.576 of 2014"

3. The circumstances under which the suit came to be dismissed as against the second defendant and reasons which support the instant prayer has been articulated in Paragraph 4 of the affidavit, which reads as follows:

"4. I submit that I engaged one Mr.M.D.Subramanian as my counsel to file the said C.S.No.576 of 2014. I submit that the 1st defendant has served written statement during April 2015 to my present counsel, along with an application for condoning delay in filing the same. However the said application has not been brought for orders by the respondents. I submit that I was waiting for the outcome of the above proceedings. On verification of the suit register during June 2018 about the written statement of the 2nd defendant we came to know that the suit has been dismissed as against the 2nd respondent/Defendant on 16.07.2015. Immediately, the same was intimated to me, and the present application is filed to restore the suit to file as against the 2nd defendant."

4. The prayer is innocuous.

5. Learned State counsel points out that the plaintiff should have been diligent and the plaintiff ought not have allowed the suit to be dismissed against the second defendant.

6. Be that as it may, I have considered the rival submissions.

7. Considering that there has been change of vakalat for the plaintiff, more so owing to demise of the erstwhile counsel for the plaintiff and considering the fact that the instant application has now been filed coupled with the obtaining position that the first defendant in any event is defending the suit, I am of the view that the prayer in this application deserves to be acceded to.

Application is ordered as prayed for.

Sd/.M.S.J
27.08.2018

//Certified to be a true copy//

Dated this the th day of 2018.

KY/31.08.2018

COURT OFFICER

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