

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2018

CORAM

THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.No.46 of 2012
and
A.Nos.3668 and 3669 of 2016

Rani Sivanandam

... Plaintiff

Vs.

1.Rajeswari Vendan,
Partner Thaaaimann Thiraiyagam,
Flat No.A21, Kadambari Santhiniketan Apartment,
City Link Road,
Adambakkam,
Chennai.

2.S.Thirumalai Vendan,
Cine Director,
Flat No.A21, Kadambari Santhiniketan Apartment,
City link Road,
Adambakkam,
Chennai.

3.Sudar Murugaiah,
(3rd defendant impleaded as per order
dated 19.1.2012 in A.No.196/12 and
amendment carried out as per order
dated 24.1.2012 in A.No.244/2012)

... Defendants

This Civil Suit is preferred, under Order VII Rule 1 of CPC read with Order IV Rule 1 of the Original Side Rules seeking judgment and decree by directing the second defendant to pay a sum of Rs.1,35,50,000/- to the plaintiff along with interest at the rate of 18% per annum from the date of plaint till date of actual realization and permanent injunction restraining defendants, their men, agents, servants, subordinates, or anybody acting on

their behalf from in any way releasing the movie 'Mayanginen Thayanginen' any where in the World till the defendants repays a sum of Rs.1,35,50,000/- to this plaintiff along with interest at the rate of 18% from the date of this plaint till the date of actual realization and for costs of the suit.

For Plaintiff : No appearance

For Defendants : Set exparte vide order
dated 28.9.2015(D1)
and 31.10.2014 (D2 and D3)

JUDGMENT

This commercial division examined the plaint averments and expressed its intention to exercise jurisdiction over this suit vide proceedings dated 17.01.2018.

2 I deem it appropriate to extract the entire proceedings, dated 17.01.2018, which read as follows :

"There is no representation for both sides today. Therefore, I perused the plaint averments and examined if this commercial division will have jurisdiction to entertain this suit. It unfurls from the plaint averments that the entire suit pertains to production of a Tamil movie which goes by the name 'ka';fpndd; ja';fpndd;' (Mayanginen Thayanginen).

2 It is the case of the plaintiff that she entered into partnership for the aforesaid purpose with defendants 2 and 3 and funded money on the understanding that she

will be the Producer of the movie. It is also the further case of the plaintiff that she had alienated immovable properties belonging to her for funding the movie, but ultimately was not shown as Producer and was let down by defendants 2 and 3. It is also stated that defendant No.3 exited from the partnership in the interregnum.

3 It is deemed appropriate to extract paragraph 11 of the plaint which is the cause of action paragraph. Paragraph 11 of the plaint reads as follows :

"11.The cause of action for the suit arose at Saligramam, Madras within the jurisdiction of this Honourable Court; where the 1st defendant is having office and on 6-4-1010 when the plaintiff had joined as a Partner in Thaaaimann Thiraiyagam and had paid a sum of Rs.2 lakhs towards the initial payment and on various dates when this plaintiff had issued cheques and other payments for the production of the film Mayanginen Thayanginen and on 8-12-2010 when this plaintiff had executed a deed of power of attorney in favour of the second defendant and on all subsequent dates when this plaintiff had parted with her hard earned money in the film suit property and on various dates when the properties stood in the name of the plaintiff were transferred to third parties either by herself or by the second defendant and on all subsequent dates, when the 2nd defendant announced his wife Mrs.Rajeswari Vendan as a Producer, are all within the jurisdiction of this Hon'ble Court to try this suit."

To be noted, in paragraph 11 of the plaint, the date 6-4-2010 has (obviously) been wrongly mentioned as 6-4-1010.

4 It is also deemed appropriate to extract the valuation paragraph of the plaint. Paragraph 12 of the plaint is the valuation paragraph and the same reads as follows :

"12.For the purposes of Court fee and jurisdiction the plaintiff values the suit for a sum of Rs.1,35,50,000/- And pays a Court fee of Rs.1,39,100/- for recovery of money under Section 22 of Tamil Nadu Court fees and Suit valuation Act 1955 and for a Permanent Injunction at Rs.1,000/- and pays a Court fee of Rs.75/- u/s 27(c) of the Tamil Nadu Court fees and Suits Valuation Act 1955 read with Appendix II of schedule of Original side rules."

5 From the narrative supra as well as the extracts supra, it is seen that this suit relates to commercial dispute under sub clause (xi) [joint venture agreements] and sub clause (xv) [partnership agreements] of Section 2(1)(c) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter referred to as 'Act 4 of 2016'). As the value of the suit is over Rs.1.35 crores which also qualifies qua 'specified value' under Section 2(1)(i) read with Section 12 of Act 4 of 2016.

6 Therefore, this suit relates to commercial dispute of specified value owing to which, this commercial division expresses intention to exercise its jurisdiction

over this suit.

7 Now that this commercial division has expressed its intention to exercise jurisdiction over this suit, I turn to the stage of the suit.

8 I find from the case file that plaintiff has been completely lackadaisical and indifferent in prosecuting the suit. This is evident from the proceedings of the Additional Master Court dated 30.10.2015 which reads as follows:

"Hence this case may be posted before the Hon'ble Court to pass appropriate orders, under the caption, 'The plaintiff consistently and continuously failed to appear and prosecute this case. Fit case for Dismissal on the ground of Non-appearance of the plaintiff and non-prosecution of the case.'"

9 Today also, there is no representation for both sides.

10 Post the matter under the caption 'For dismissal' on Monday, i.e., 22.1.2018."

3 It would be evident from the extracted proceedings supra that paragraphs 1 to 6 dealt with jurisdiction of this commercial division and paragraphs 7 to 10 set out the trajectory of this suit.

4 In the light of my direction given in paragraph 10 of the proceedings extracted supra, this matter is listed today under the caption 'For

dismissal'. Today also, there is no representation for plaintiff. Defendants were already set ex parte vide orders dated 28.9.2015 and 31.10.2014 respectively. Hence this suit stands dismissed for default / non prosecution. No costs. Consequently connected applications are closed.

22.01.2018

Index : Yes/No

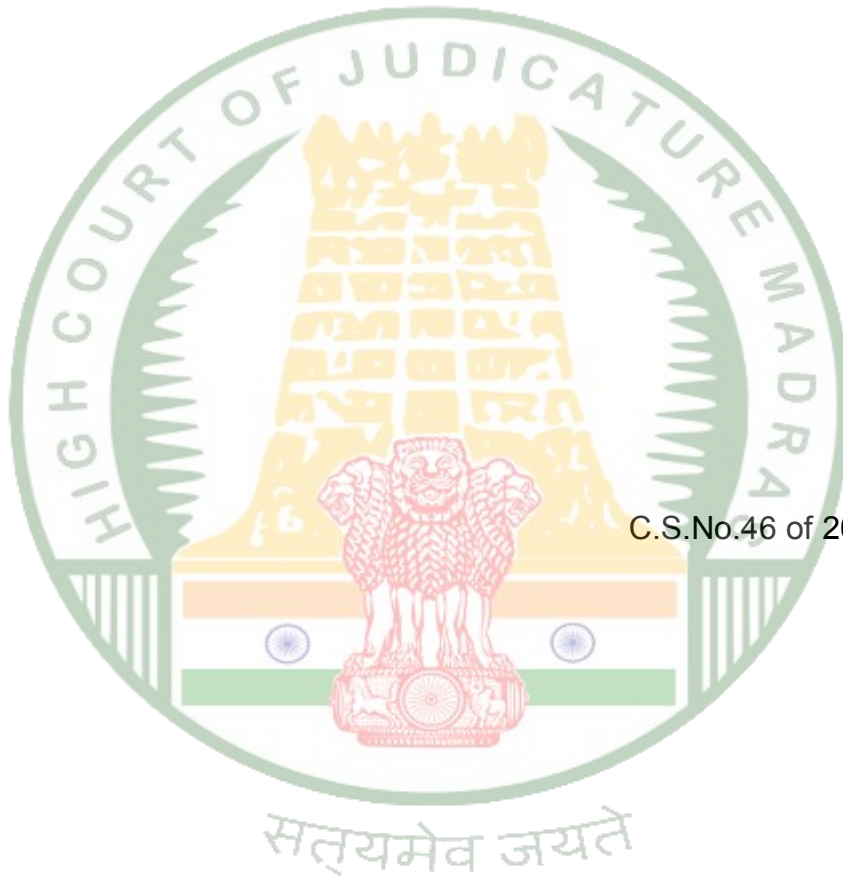
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M.SUNDAR, J.

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