

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 17TH DAY OF DECEMBER 2018

THE HON'BLE MR. JUSTICE M.SUNDAR

C.S.No.73 of 2017

N.Sathish,
Proprietor,
OM TECH PLASTICS
No.16, 1st Main Road,
Ram Nagar,
Peravallur,
Chennai 600 082.

...Plaintiff

-vs-

1. C.Murali Kannan,
No.334, Mada Koil Street
N.S.K.Nagar, Chennai 600 106.

2.M.Srinivasan,
No.10/28, Old Veerapandiya Nagar,
3rd Street, Choolaimedu,
Chennai- 94.

3.B.Ramachandran,
No.334, Mada Koil Street,
N.S.K.Nagar,
Chennai 600 106.

सत्यमेव जयते

...Defendants

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

This suit is listed under the caption 'CASE MANAGEMENT HEARING' ('CMH' for brevity). CMH is under Order XV-A of amended 'The Code of Civil Procedure, 1908' ('CPC' for brevity) as amended by 'The Commercial Courts Act, 2015' ('said Act' for brevity).

2. A perusal of Rule 2 of Order XV-A of amended CPC as amended by said Act will reveal that various steps that have to be taken in a CMH hearing are adumbrated therein.

3. The first step as contained in Clause (a) of Rule 2 of Order XV-A of amended CPC as amended by said Act is framing of issues after examining pleadings and documents produce before Court.

4. Pleadings have examined and the documents have been perused. Both sides were heard. Mr.R.Sathish Kumar, learned counsel on record for sole plaintiff and Mr.D.Irusappan, learned counsel on record for all the three defendants were before this Commercial Division.

5. To be noted, both learned counsel have also filed draft issues.

6. After the aforesaid exercise, following issues are framed:

'1)Whether the plaintiff is the proprietor of trademark "SIVA" since 1994 for water taps?

2)Whether there is cause of action for the present suit?

3)Whether the plaintiff has come to this Hon'ble Court with unclean hands and has suppressed material facts?

4)Whether the suit is bad for non-joinder of necessary party?

5)Whether the defendants have been manufacturing taps under the trademark "SIVA" since 1994 and whether the defendants can claim prior user of the trademark "SIVA" with respect to taps as against the plaintiff?

6)Whether the plaintiff's father S.Narendran and the Defendants were jointly carrying on manufacturing plastic taps business in the name and style of SIVA?

7)Whether the Mark of "SIVA" and "MSR SIVA" is deceptively similar in ocular vision that they creating an impression "SIVA" and "MSR SIVA" are one and the same in the public mind?

8)What other reliefs are the parties entitled to?'

7. Next step under CMB is list of witnesses. While, plaintiff has produced list of witnesses, defendant's counsel seeks time to produce list of witnesses.

8. Registry to list this matter under the same caption i.e., 'CASE MANAGEMENT HEARING' on 08.01.2019.

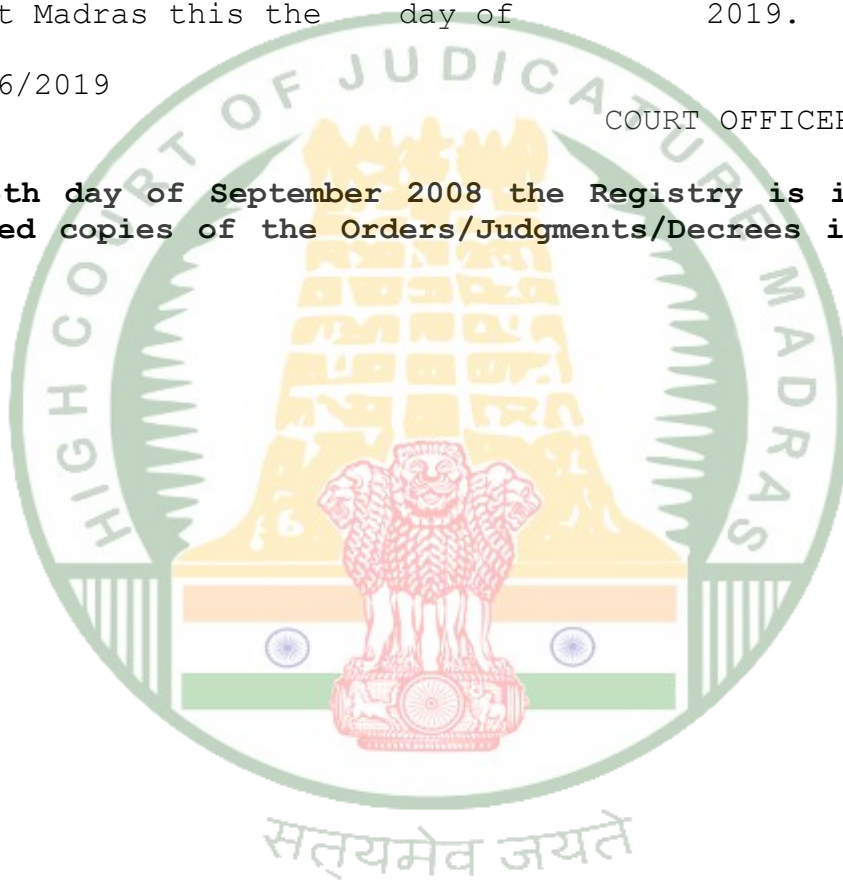
Sd./-M.S.J
17.12.2018

//Certified to be true copy//
Dated at Madras this the day of 2019.

JJ 27/06/2019

COURT OFFICER(O.S.)

From 25th day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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