



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .Nos.1370 & 1371 of 2016

Vijay Batra,
S/o.Late Sh.Jiwan Dass Batra,
Sole Proprietor,
Adlay Formulations,
S.C.O.915, 2nd Floor,
Manimajra,
Chandigarh - 160 101.

... Petitioner/5th Defendant/
Third Party in both petitions

Vs.

1. R.Balaji

... Respondents/Plaintiff/
Applicant in both petitions

2. M.Balachandran

3. B.Vikram

4. Lalitha Balachandran

5. Rahul Batra

... Respondents/Defendants/
Respondents in both petitions

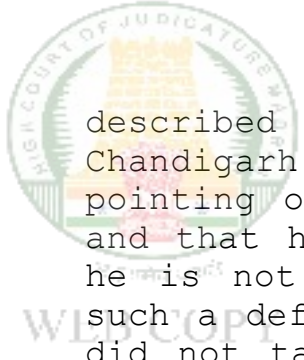
COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 01.04.2016 made in I.A.Nos.395 and 396 of 2015 in O.S.No.128 of 2012 on the file of the learned I Additional District Judge(P.C.R.), Trichy.

(in both petitions)

For Petitioner : Mr.Raguvaran Gopalan

C O M M O N O R D E R

O.S.No.128 of 2012 was instituted by the first respondent herein before the learned District Judge, Tiruchirappalli, seeking recovery of a certain sum of money. Totally there were four defendants originally. The fourth defendant is one Rahul Batra,



described as Director(Marketing) of Adlay Formulations, Chandigarh. The fourth defendant filed his written statement pointing out that the Adlay Formulation is a Proprietary concern and that has not been properly represented and that in any event he is not competent to represent the said concern. Even though such a defence was taken in the written statement, the plaintiff did not take any step to implead Adlay Formulations in a proper manner. The parties went to trial accordingly. At the stage of arguments, the plaintiff filed the present I.A.Nos.395 and 396 of 2015 for reopening the case and for impleading the Revision petitioner herein in his capacity as the sole proprietor of Adlay Formulations, Chandigarh. The Court below allowed the said applications by orders dated 01.04.2016. The correctness of the said orders is questioned in these Civil Revision petitions.

2. Heard the learned counsel on either side.

3. This Court is of the view that substantial justice must be rendered. Therefore, this Court does not propose to interfere with the impugned orders in so far as they reopen the case and implead Vijay Batra, as sole proprietor of Adlay Formulations, Chandigarh. But then, two clarifications will have to be made. The order of amendment will come into force on the date when I.A.Nos.395 and 396 of 2015 were filed. The amendment will not relate back to the institution of the suit. In so far as limitation is concerned, issues are left open.

4. The learned counsel for the plaintiff submits that if a party has only been erroneously described, the same will not go to the root of the matter. All these aspects are left open. It is open to the Revision petitioner herein to file an additional written statement raising this plea. Of course both the learned counsel agree that there is no need to adduce further evidence on this aspect.

5. With these clarifications, both the Civil Revision petitions stand disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS-IV)



To

1. The I Additional District Judge (P.C.R.),
Trichy.

2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 2 CC TO MR.K.PRABHAKAR, ADVOCATE IN SR NO.82438

PMU

BU/PM/SAR-IV : 03.10.2018 : 3P/6C

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