

O.A.Nos.175, 176 & 1672 of 2018
in C.S.No.123 of 2018

Dr.G.Jayachandran, J.

The suit is filed alleging infringement in design. The plaintiff in the suit is the applicant in all the three applications, wherein, these interlocutory applications are taken out for ad interim injunction restraining the respondents men and agents from any manner (i) infringing the plaintiff's right of design (ii) passing off (iii) appointment of Advocate Commissioner to inspect and seized the infringing models.

2. In an identical suit and the applications filed by the plaintiff against the Butterfly Industries in C.S.677 of 2016, the learned single Judge of this Court after considering the rival submissions has passed the following order:

“17.This Court cannot give a relief to the applicants, which they would otherwise might become entitled to under the Patents Act, 1970. Admittedly, we are at the interlocutory stage. The registration obtained by the applicants per se cannot be the only factor to be seen even at this stage. The applicants have also admitted through the pleadings qua the similarity of the products, viz., one with registration and the other without it. Therefore, on an over-all consideration of the materials available on record, this Court does not find a prima-facie case for the grant of injunction as prayed for. Accordingly, the applications in O.A.Nos.814 and 815 of 2016 stands dismissed.

However, considering the nature of the issues involved, the parties are directed to file the documents relevant for deciding the suit, within a period of four weeks from the date of receipt of a copy of this order. As written statements are filed by the respondent, the issues will be framed and thereafter the matter would stand posted for recording evidence. The respondent shall also file a statement of accounts for the framelessness products sold every month from the date of filing of the suit, periodically, within a period of four weeks from the date of receipt of a copy of this order. Similarly, statements to be filed for the prospective sales on or before 7th of every ensuing month with duly served copies on the applicants' counsel, till the disposal of the suit.

18.As the applications in O.A.Nos.814 and 815 of 2016 have been dismissed on merits, this Court is of the view that there is no necessity to allow the application filed for appointment of Advocate Commissioner being consequential.”

3. The said suit is also tagged along with the present suit. In the light of the above, for the sake of uniformity in all these applications identical, order has been passed. Accordingly, these three applications are closed.

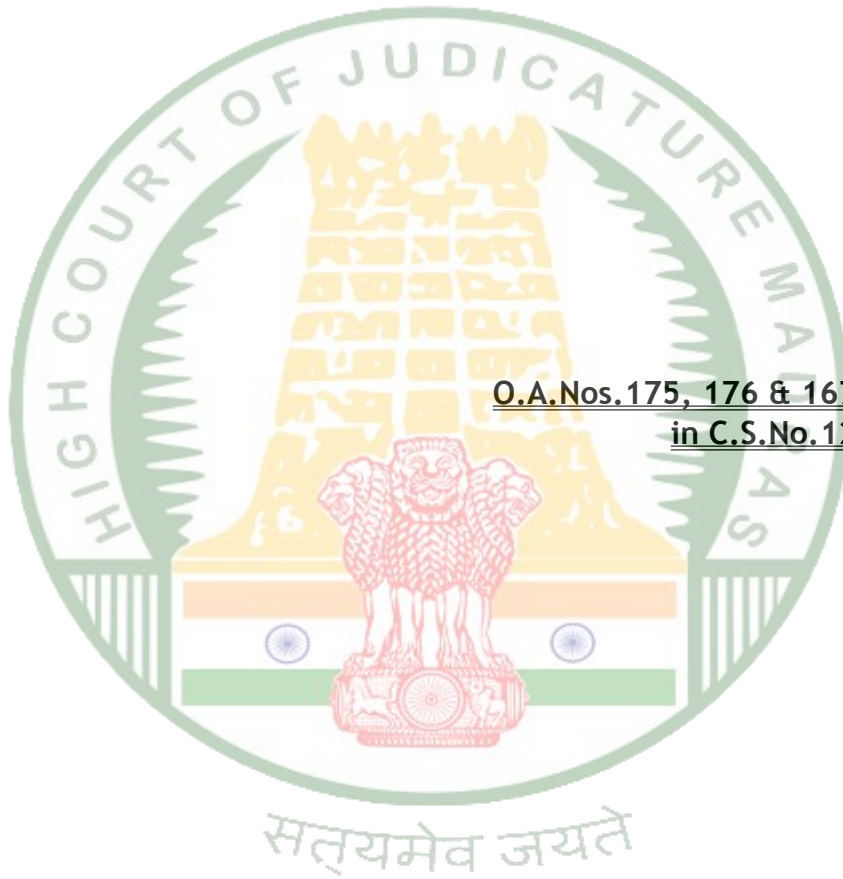
10.12.2019

rpl

O.A.Nos.175, 176 &1672 of 2018
in C.S.No.123 of 2018

Dr.G.Jayachandran, J.

rpl



O.A.Nos.175, 176 & 1672 of 2018
in C.S.No.123 of 2018

WEB COPY 10.12.2019