

THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.12.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

CRP (PD). Nos.507, 508 & 509 of 2014

and

MP.No.1 of 2014

1.Ramniklal Pandia

2.Kamala Pandia

... Petitioners
(in all cases)

Versus

1.Pramod Chordia

2.G.Ratnakumar Ranka

3.M/s United Pharma (India) Pvt., Ltd.,
No.117, (New No.97) Nyaniappa Naicken Street,
Park Town,
Chennai - 600 003.

4.Lalitraj Pandia

5.Hemant Pandia

6.Kanchan Pandia

7.Lata Pandia

... Respondents
(in all cases)

Prayer in CRP.No.507 of 2014:

Civil Revision petition is filed under Article 227 of the Constitution of India, praying to set aside the ex-parte order dated 26.09.2013 in I.A.No.14197 of 2013 in O.S.No.5313 of 2013 passed by the learned VI Assistant, City Civil Judge at Chennai.

Prayer in CRP.No.508 of 2014:

Civil Revision petition is filed under Article 227 of the Constitution of India, praying to set aside the ex-parte order of interim injunction granted on 27.09.2013 in I.A.No.14231 of 2013 in O.S.No.5313 of 2013 passed by the learned VI Assistant, City Civil Judge at Chennai.

Prayer in CRP.No.509 of 2014:

Civil Revision petition is filed under Article 227 of the Constitution of India, praying to set aside the ex-parte order of interim injunction granted on 27.09.2013 and extended on various subsequent order dates in I.A.No.14232 of 2013 in O.S.No.5313 of 2013 passed by the learned VI Assistant, City Civil Judge at Chennai.

For petitioners : Mr.P.Aravind
(in all cases) for Mr. T.K.Bhaskar

For respondents : Mr. G.R.M.Palaniappan (for R3 to R7)
(in all cases) : R1 & R2 - No Appearance

ORDER

The defendants 5 and 6 in O.S.No.5313 of 2013 before the VI Assistant City Civil Court, Chennai, are the revision petitioners herein. The respondents 1 and 2 herein have filed the suit in O.S. No. 5313 of 2013 for the relief of permanent injunction restraining the defendants 2 to 4 therein from giving consent for selling the suit properties to the first defendant company and also for an order of permanent injunction restraining the defendants 2 to 4, their men, agents and representatives from selling, alienating or in any manner dealing with B Schedule properties. Pending suit, the plaintiffs/respondents 1 and 2 herein filed three Interlocutory applications in I.A.Nos.14197, 14231 and 14232 of 2013.

2. I.A.No.14197 of 2013 was filed under Order II and Rule 2 of CPC, seeking to grant leave to sue the respondents 1 to 4/defendants for specific

performance of memorandum of understanding dated 29.04.2013 at a later stage.

3.I.A. Nos. 14231 & 14232 of 2013 were filed under Order XXXIX and Rule 1 and 2 of CPC, seeking to grant interim injunction restraining respondents 2 to 4/defendants 2 to 4 from giving consent for selling the suit properties to the first defendant and to restrain the defendants 2 to 4 from selling or dealing with 25000 shares of the first defendant company belonging to the defendants 2 to 4.

4.All these applications were allowed by the trial court. Aggrieved by the same, the defendants 5 and 6 in the suit have filed the present Civil Revision Petitions on the ground that the Trial Court without affording any opportunity to them passed the ex-parte orders in the above said applications.

5.Though the ad-interim injunction has been granted in I.A.Nos.14231 & 14232 of 2013, the main grievances of the contesting defendants is that before allowing the petitions seeking leave to sue, the version of the respondents has to be taken into consideration and opportunity has to be granted to them to defend the application.

6.Mr.G.R.M.Palaniappan, learned counsel for respondents 3 to 7 would

state that the respondents 3 to 7 have filed an application under Order VII Rule 11 of CPC for rejection of the plaint, however, in view of the pendency of the Civil revision petition, the petition was returned without numbering.

7. Heard the learned counsel for the petitioner and the learned counsel appearing for respondents 3 to 7. None appeared on behalf of respondents 1 and 2.

8. Taking into consideration the suit in O.S.No.5313 of 2013 filed for specific performance based upon the memorandum of understanding dated 29.04.2013 namely the agreement to sell the property and also taking note of the fact that without ordering notice to the contesting respondents, the application in I.A. No. 14197 of 2013 filed under Order II and Rule 2, without prejudice to the contention and rival submissions that has to be adduced before the Trial Court, this Court is of the considered view that the order passed in I.A.No.14197 of 2013 has to be set aside and the matter can be remitted back to the Trial court to hear the application after giving opportunity to the contesting respondents. Accordingly, CRP No. 507 of 2014 is allowed and the order dated 26.09.2003 passed in I.A. No. 14197 of 2013 is set aside. The trial Court is directed to take up I.A. No. 14197 of 2003, hear the parties and then pass orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order. Liberty is given to the contesting respondents in I.A. No. 14197 of 2003 to file necessary

counter affidavit or any other documents before passing orders.

9.CRP Nos. 508 and 509 of 2014 are filed against the order of ad-interim injunction granted pending suit. Since I have already taken a view in CRP.No.507 of 2014 to remand the matter back to the Trial Court, which goes to the root of the issue, CRP Nos. 508 and 509 of 2014 stand closed, with liberty to the respective parties to file appropriate application for rejection of the plaint in the petition filed by them as against the order passed in Order II and Rule 2 of CPC. With these observations CRP.Nos.508 & 509 of 2014 are dismissed. Consequently, the connected miscellaneous petition is closed.

20.12.2019

Index :yes/no
Internet :yes/no
Speaking/Non-Speaking order

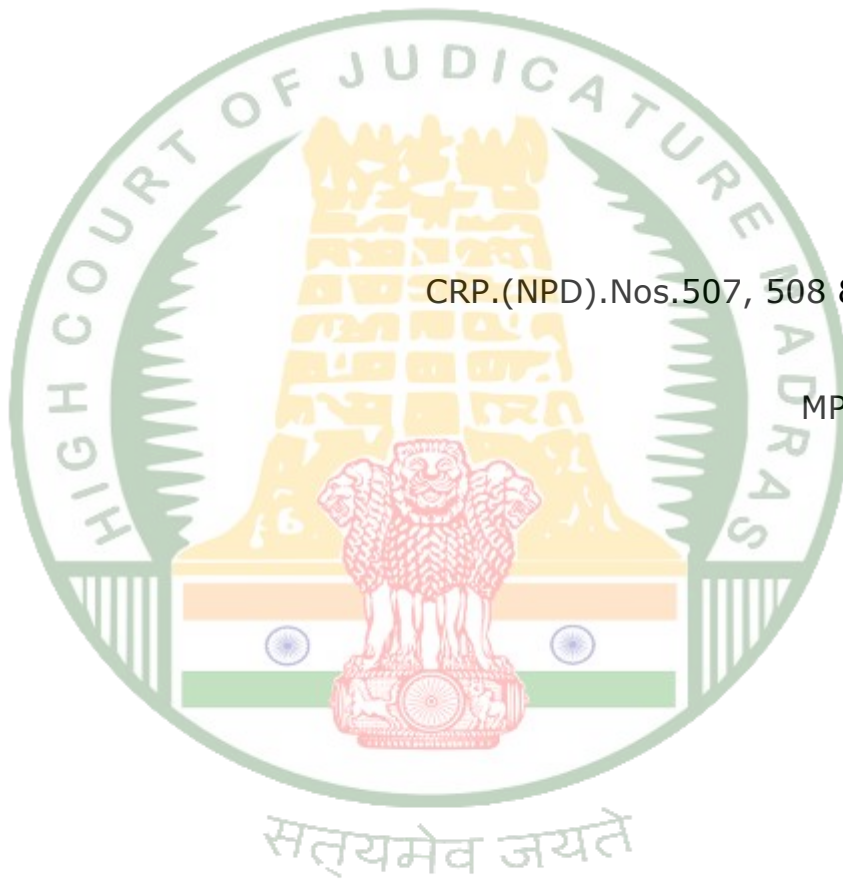
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To

The VI Assistant, City Civil Court, Chennai.

RMT.TEEKAA RAMAN.J.,

klt



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and
MP.No.1 of 2014

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