

C.M.P.No.15827 of 2019
in
O.S.A.No.166 of 2018

R.SUBBIAH, J

and

T.KRISHNAVALLI, J

(The Order of the Court was made by R.Subbiah, J)

This petition is filed to grant extension of time to the petitioner/appellant to pay a sum of Rs.10 Lakhs to the respondents as ordered in the judgment dated 20.03.2019 in the Original Side Appeal (OSA) No.166 of 2018.

2. The said appeal in O.S.A.No.166 of 2018 has been filed as against the order dated 06.12.2017 made in the Original Application in O.A.No.744 of 2016 in C.S.No.610 of 2016 on the file of this Court, in and by which, the learned Single Judge had disposed of the said O.A., relevant portion of which is extracted hereunder:

"This application has been filed under Order 40 Rule 1 of CPC, seeking to appoint an Advocate Receiver to collect the proceeds of the Hotel, namely, Hotel Green City, at Old No.34, New No.67, Barrex Road (Opposite to Veterinary Hospital), Vepery, Chennai-7.

2. The suit in C.S.No.610 of 2017 has been filed by six Plaintiffs against one Defendant, seeking a judgement and decree, directing the Defendant to

pay a sum of Rs.2,99,42,500/- together with interest at 18% p.a. on the principal amount of Rs.1,95,50,000/- and costs of the suit.

... ..

... ..

11. Accordingly, the relief sought in this application is modified and this application is disposed of, without costs, on the following terms:-

1. The Plaintiffs and the Defendant are directed to open a joint account in any one of the nationalised banks.

2. The Defendant is directed to deposit a sum of Rs.1,00,000/- (Rupees one lakh only) from and out of the earnings of the Hotel, namely, Hotel Green City, at Old No.34, New No.67, Barrex Road (Opposite to Veterinary Hospital), Vepery, Chennai-7, every month in the said account, until further orders.

3. The Defendant is directed to deposit a sum of Rs.1,00,000/- (Rupees one lakh only) from the date of institution of the suit and also such deposit of arrears amount shall be made in three equal instalments.

4. The Plaintiffs and the Defendant are directed to file a statement of accounts once in six months for consideration of this Court.

5. The Plaintiff is at liberty to file necessary application in case of non compliance of the above order by the Defendant."

3. The above said order of the learned Single Judge in O.A.No.744 of 2016 in C.S.No.610 of 2016, was challenged in appeal in O.S.A.No.166 of 2018 on 20.03.2019, and the said O.S.A. was disposed of by a Division Bench of this Court on 20.03.2019, holding as follows:

"This appeal is preferred against the order of the learned Single Judge who passed a conditional order against the appellant to be complied with by him in the suit filed for recovery of money based upon an undertaking given admittedly by him on 11.02.2015.

2. When the matter is taken up for hearing, for the disposal of the present appeal alone, it is agreed by the parties represented through their counsel, as under:-

(i) The appellant shall pay a sum of Rs.10 lakhs to the respondents without prejudice to the contentions made in the appeal within a period of six weeks from the

date of receipt of a copy of this judgment;

(ii) The undertaking given already with respect to the alienation of his right in the running business pertaining to the hotel would hold good till the disposal of the suit;

(iii) We request the learned Single Judge dealing with the suit to expedite the hearing after framing issues and make an endeavour to dispose of the suit within a period of six months from the date of receipt of a copy of this judgment;

(iv) It is made clear that if the appellant fails to comply with the aforesaid terms (i) and (ii), then liberty is given to the respondents to revive the order of the learned Single Judge.

With the above said observation, the appeal stands disposed of. No costs. Consequently, connected CMP.No.9002 of 2018 stands closed."

4. Thus, it is clear that when the O.S.A. came up before this Court on 20.03.2019 before the Division Bench of this Court, a direction was given to the appellant to pay a sum of Rs.10 lakhs to the respondents without prejudice to the contentions made in the appeal, within a period of six weeks from the date of receipt of a copy of the judgment. Since as per the direction given by this Court on 20.03.2019, the said sum of Rs.10 lakhs had not been paid by the appellant to the respondents within the said stipulated time, the present C.M.P. has been filed seeking for extension of time granted by the said judgment dated 20.03.2019.

5. When this C.M.P. was taken up for hearing on the earlier occasions, at the request of the learned counsel appearing for the appellant, this Court orally granted time to pay the said amount of Rs.10 lakhs in the meantime. Today (18.09.2019), when the C.M.P. is heard, the learned counsel for the appellant brought a sum of Rs.10,05,000/- by way of six Demand Drafts, each Rs.1,67,500/-, dated 17.09.2019 drawn on Union Bank of India, Madras Veterinary Branch, Chennai in D.D.Nos.755055, 755053, 755093, 755054, 755052 and 755051, in favour of M/s.Abdul Basheer, K.Abdul Latheef, V.Musthafa, N.P.Abdulla, M Sooppy KTK and K.C.Moidu.

6. Thus, the earlier judgment dated 20.03.2019 passed by this Court in

O.S.A.No.166 of 2018, had been complied with by the appellant, though belatedly, though the time of six months granted therein by the Division Bench of this Court under judgment dated 20.03.2019 in O.S.A.No.166 of 2018, had expired.

7. In view of the above payment of the amount as directed by the Division Bench on 20.03.2019, this C.M.P. is disposed of, with a request to the Single Judge to take up the suit itself for disposal by expediting the hearing of the suit in C.S.No.610 of 2016, by framing necessary issues and after recording of the evidence by both parties, dispose of the said suit itself, preferably, within a period of four months from today.

CS

Speaking Order: Yes

(R.P.S.J)

(T.K.J)

18.09.2019

Registry is directed to issue this order copy to:

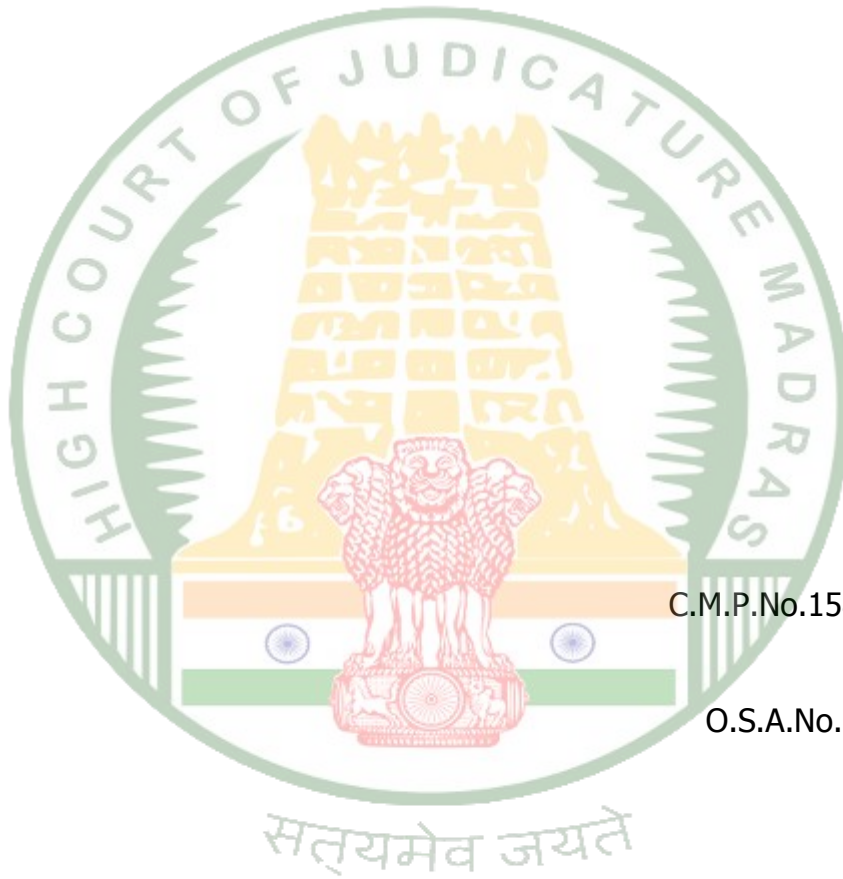
The Sub-Assistant Registrar,
Original Side,
High Court, Madras.

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T.KRISHNAVALLI, J

CS



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