

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 27TH DAY OF NOVEMBER 2019

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A.No.8941 of 2019

in

C.S.No.849 of 2014

M/S.RAMANIYAM REAL ESTATES PRIVATE LIMITED
having their registered office
at No.17/35 2nd Main Road,
Gandhi Nagar, Adyar,
Chennai 600 020.

..Plaintiff

-vs-

M/S.SPENCERS RETAIL LIMITED
HAVING ITS REGISTERED OFFICE AT
NO.769, ANNA SALAI,
CHENNAI-600 002.
HAVING ITS CORPORATE OFFICE AT
DUNCAN HOUSE, 1ST FLOOR,
31, NETAJI SUBHASH ROAD,
KOLKATA-700 001,
REP. BY ITS AUTHORISED SIGNATORY
MR.JATHIN DAS

..Defendant

A.No.8941 of 2019:

M/S.SPENCERS RETAIL LIMITED
NO.769, ANNA SALAI,
CHENNAI-600 002.
DUNCAN HOUSE, 1ST FLOOR,
31, NETAJI SUBHASH RD,
KOLKATA-700 001,
REP. BY ITS AUTHORISED SIGNATORY
Mr.G.R.Shrikanth

..Applicant/Defendant

-VS-

M/S.RAMANIYAM REAL ESTATES PRIVATE LIMITED
having their registered office
at No.17/35 2nd Main Road,
Gandhi Nagar, Adyar,
Chennai 600 020.

..RESPONDENT/PLAINTIFF

-vs-

with respect to the letter dated 25/09/2012 sent by the respondent to the applicant and letter dated 17/07/2013 both forming part of document No.4 series filed by the applicant along with its Written Statement and counter claim and the sanction plan No.B1/10242/2010 dated 26/04/2011.

This application coming on this day before this court for hearing, the court made the following order:

This application has been filed by the applicant/defendant to permit the applicant to lead secondary evidence with respect to the letter dated 25.09.2012 sent by the respondent to the applicant and letter dated 17.07.2013 both forming part of document No.4 series filed by the applicant along with its written statement and counter claim and the sanction plan No.B1/10242/2010 dated 26.04.2011 which are destroyed in the fire accident took place on 06.09.2019.

2. The learned counsel for the respondent/plaintiff raised an objection for marking the documents mainly on the ground that there is no proof for the said fire accident.

3. The learned counsel for the applicant/defendant submitted that the the news about the said fire accident has been published in the Newspapers. Further, Proof affidavit submitted by him also explaining about the loss of originals.

4. In view of the same, this Court is of the view that the mere marking of the documents will not amount proof of the same. Proof is different act.

5. With these observations the applicant is permitted to file the documents as secondary evidence.

Accordingly, the application ordered. Therefore, the respondent is at liberty to raise objection before the learned Master. The learned Master shall note down the objection raised by the respondent. Such objection will be dealt by this Court at the time of final disposal of the suit.

6. Post the matter before the learned Master on 09.12.2019 for recording plaintiff's side evidence and the cross examination shall be completed on or before 28.12.2019. The defendants side evidence shall be commenced on 06.01.2020 and the cross examination of the defendants side evidence shall be completed on or before 22.01.2020.

7. After completion of above said exercise, post the matter before this Court on 30.01.2020.

Sd/.N.S.K.J.

27.11.2019

//Certified to be a true copy//

Dated this the th day of 2020.

SU/29.01.2020

COURT OFFICER
From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.