

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2019

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A.No.2308 of 2018
and C.M.P.No.17631 of 2018

1.M.Thangavel

2."Muthoot" Residency,
Rep. by its Proprietor,
M.Thangavel,
S/o.Murugaiya,
residing at No.20, Main Road,
Velankani,
Nagapattinam District and Munsiff. ..Appellants / Defendants

versus

C.Selvam
S/o.S.Chidambaram,
Working as Area Manager
(Business Development),
Having his Office at Muthoot Fincorp Ltd.,
Muthoot Centre,
Punnen Road, Thiruvananthapuram,
Kerala State. ...Respondent / Plaintiff

Prayer: Civil Miscellaneous Appeal filed under Order XLIII Rule 1 of the Code of Civil Procedure, against the judgment and decree dated 09.02.2018 made in I.A.No.18 of 2017 in O.S.No.1 of 2017 on the file of the District Court, Nagapattinam.

For Appellants : M/s.P.Veena Suresh

For Respondent : Mr.V.Raghavachari

J U D G M E N T

This Civil Miscellaneous Appeal has been directed against the fair and decretal order dated 09.02.2018 made in I.A.No.18 of 2017 in O.S.No.1 of 2017 passed by the learned District Judge, Nagapattinam.

2. The brief facts of the case is that, Muthoot Fincorp Limited is the plaintiff, represented by its authorised officer, C.Selvam, who has filed the Original Suit in O.S.No.1 of 2017, seeking the relief of permanent injunction restraining the defendants, their men, agents and servants from in any manner using, rendering service, advertising or otherwise dealing with the trade mark/trade name MUTHOOT amounting to infringement and passing off plaintiff's trade mark MUTHOOT and also to grant the relief of permanent injunction restraining the defendants, their men, agents and servants from in any manner using, rendering service, advertising or otherwise dealing with the trade mark/trade name MUTHOOT.

3. In the meanwhile, the plaintiff has filed an Application in I.A.No.18 of 2017 under Order 39, Rules 1, 2 of C.P.C., seeking to grant an interim injunction restraining the respondents, their men, agents and servants from in any manner using, rendering service, advertising or otherwise dealing with the trade mark/trade name MUTHOOT. By an order dated 09.02.2018, the consequential injunction was granted by the learned District Judge, Nagapattinam.

4. Aggrieved over the same, both the appellants/defendants, namely, M.Thangavel and 'Muthoot' Residency, represented by its Proprietor, M.Thangavel, have filed the present Civil Miscellaneous Appeal.

5. During the pendency of the present C.M.A., an affidavit dated 26.04.2019 has been filed by the first appellant stating that he has changed the name of the second appellant Concern from the name and style of Muthoot Residency to Green Park. The relevant portion of the affidavit is extracted hereunder;

"2. I state that the above appellants were anxious over the settlement of the Original Suit, hence the trial Court was pleased to refer the Original Suit for the settlement before the Lok Adalat and the negotiations for the amicable settlement is yet to arrive. It is stated that the 1st appellant in the meanwhile, has changed the name of the 2nd appellant - Concern from the name and style of Muthoot Residency to Green Park. It is further stated that there is no business activity under the name and style of Muthoot Residency since November, 2018 and all the business are now running under the name and style of Green Park."

6. As the written statement filed by the appellants would clearly show that the respondent/plaintiff had failed to pay the monthly rent from November 2015, from which, lawyer's notice was issued on 01.04.2016, demanding payment of rent from November 2015 and the matter is also referred before the Lok Adalat for settlement of issues. Therefore, this Court directs both the parties to appear before the Lok Adalat, attached to the District Court, Nagapattinam, for settlement of issues. It is stated that the issues have been seized, the Lok Adalat is also directed to give a finding thereon.

7. With these directions, the Civil Miscellaneous Appeal stands disposed of. Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

Sd/-

Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

sri

To

1.The District Judge, Nagapattinam.

2. The Presiding Officer, Lok Adalat attached to District Judge, Nagapattinam

Copy To

The Section Officer,
VR Section, High Court, Madras

+1cc to Mr.P.Veena Suresh, Advocate SR.No.50847

+1cc to Mr.V.Raghavachari, Advocate SR.No.50508

RJI (CO)
GMY (14/08/2019)

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