

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.Nos.1809 to 1811 of 2018  
C.M.P.No.13928 to 13930 of 2018

Suzlon Energy Limited  
One Earth, Opp.Magarpatta City,  
Hadapsar,  
Pune,  
Maharashtra-411 028.  
rep.by its authorized Signatory,  
Mr.Anoop Khatri.

... Appellant/Petitioner/  
Plaintiff in all appeals

vs.

Suzlon Cotton Mills Private Limited,  
D.No.275, S.F.No.341,  
P.C.K.Nagar,  
Chettipalayam Road,  
Palladam-641 664,  
Tiruppur District.

... Respondent/Respondent/  
Defendant in all appeals

COMMON PRAYER : Civil Miscellaneous Appeals filed under Order 43 Rule 1 of CPC against the order and decretal order dated 20.12.2017 passed in I.A.Nos.483 to 485 of 2017 in O.S.No.286 of 2017 on the file of the Principal District and Sessions Judge, Tiruppur.

In all appeals  
For Appellants

: Mr.Rajesh Ramanathan

For Respondent

: M/S.P.C.N RAGHUPATHY

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## C O M M O N J U D G M E N T

The common Fair and decreetal order dated 20.12.2017 passed in I.A.Nos.483 to 485 of 2017 in O.S.No.286 of 2017 is under challenge in the present Civil Miscellaneous Appeals.

2. The plaintiff is the appellant and the suit was instituted for the relief of permanent injunction and for other reliefs. Along with the suit, three interlocutory applications were filed. More specifically, I.A.No.483 of 2017 was filed for temporary injunction to restrain the respondents, their agents, servants, directors, partners, assigns, franchisees, distributors, proprietors from using the name "SUZLON" and/or any other trade mark deceptively or confusingly similar to the same or to petitioner's well known trade mark "SUZLON" either in whole or as a part of a Trade Mark/Trade Name/Domain name or in any other manner whatsoever, pending disposal of the suit.

3. I.A.No.484 of 2017 was filed for temporary injunction to restrain the respondents their agents, servants, directors, partners, assigns, franchisees, distributors, proprietors from manufacturing, selling, marketing, advertising, exporting itself and/or permitting the use of or supplying its goods to any third party, or clients of such a third party, who are wrongfully using, or in any other manner, using or applying the trade mark "SUZLON" and/or any other trade mark deceptively or confusingly similar to the same or to petitioner's well known trade mark "SUZLON" in respect of and upon any product or service in any manner whatsoever amounting to infringement of petitioner's registered trademark "SUZLON" pending disposal of the suit.

4. I.A.No.485 of 2017 was filed for temporary injunction to restrain the respondents, their agents, servants, directors, partners, assigns, franchisees, distributors, proprietors from manufacturing, selling, marketing, advertising, exporting itself and/or permitting the use of or supplying its goods to any third party, or clients of such a third party, who are wrongfully using, or in any other manner, using or applying the trade mark "SUZLON" and/or any other trade mark deceptively or confusingly similar to the same or to petitioner's well known trade mark "SUZLON" in respect of and upon any product or service in any manner whatsoever as described herein above and doing any other acts as may lead to passing off of their goods as those of the petitioner pending disposal of the suit.

5. All the three interlocutory applications filed in O.S.No.286 of 2017 were adjudicated and the Trial Court elaborately considered the issues raised between the parties for grant of an interim order and rejected all the interlocutory

applications. Aggrieved by the said common order, the appellants preferred the present Civil Miscellaneous Appeals.

6. The learned counsel appearing on behalf of the appellants made an attempt to elaborate the facts and circumstances for the purpose of assigning the common order passed by the trial Court. However, the fact remains that the order impugned was passed on 20.12.2017. Almost three years lapsed, the suit is pending without any interim order for more than three years. On account of efflux of time, this Court is not inclined to adjudicate the merits. When the suit is pending for long period without any interim order, it would be preferable to dispose of the suit as expeditiously as possible instead of re-arguing the interlocutory applications for grant of interim order as the parties are maintaining their positions for the past more than three years. Under these circumstances, to grant or not to grant an interim order would not arise and the question of considering the balance of convenience also would not arise. Thus, this Court is inclined to direct the trial Court to expedite the trial enabling the parties to establish their case with reference to the documents and evidence.

7. It is needless to state that the findings made in the common order passed in the interlocutory applications should not be a binding factor and the trial Court should decide the issues independently and uninfluenced by the findings made in the interlocutory applications order. Interlocutory applications order is passed based on the prima facie case and balance of convenience. However, the suit is to be decided based on the issues raised and with reference to the documents and evidence produced by the respective parties as well as the other factors. Thus, the suit is to be decided independently and uninfluenced by the findings if any arrived in the interim order.

8. The learned counsel appearing for the appellant made a submission that yet another proceedings are pending before the Intellectual Property Appellate Board.

9. However, it is for the appellant to pursue the matter in the manner known to law. As far as the order under challenge in the present civil miscellaneous Appeals are concerned, the parties are bound to proceed with the trial in the suit as the suit itself is pending for more than three years. This being the factum, the learned Principal District and Sessions Judge, Tiruppur is requested to proceed with the trial and dispose of the same as expeditiously as possible.

10. With these observations, the order impugned dated 20.12.2017 passed in I.A.Nos.483 to 485 of 2017 in O.S.No.286 of 2017 stands confirmed and consequently, Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

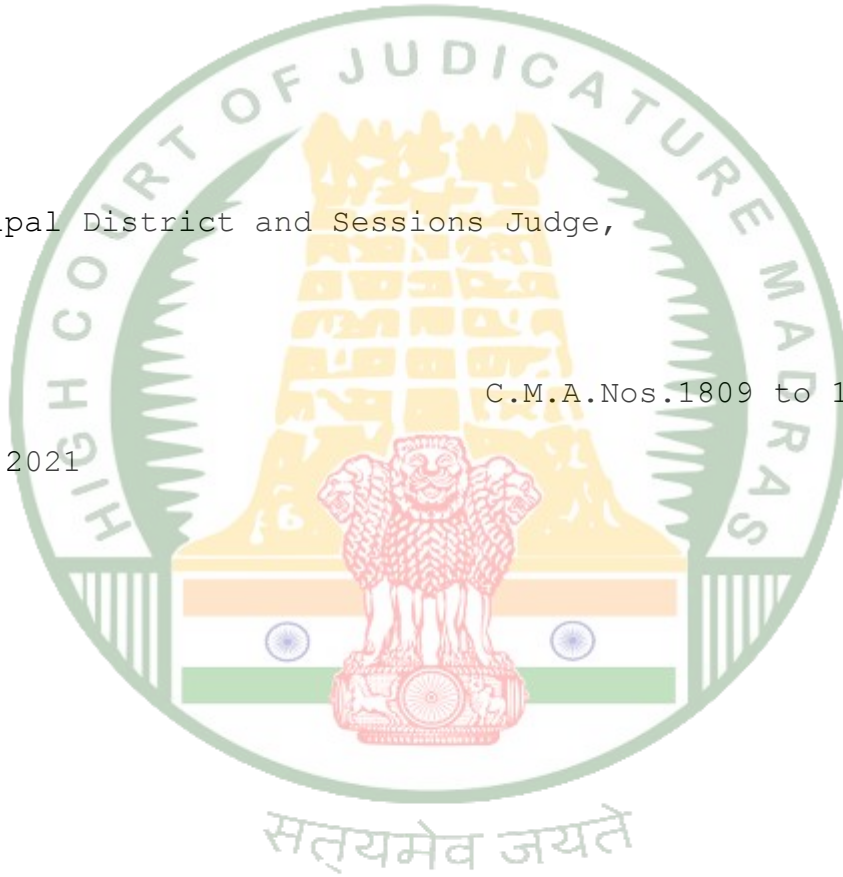
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To

The Principal District and Sessions Judge,  
Tiruppur.

C.M.A.Nos.1809 to 1811 of 2018

GJ(CO)  
CSR 16.04.2021



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