

O.A.No.694 of 2016
& C.S.(Comm.Divn.).No.568 of 2016

DR.G.JAYACHANDRAN, J.

The suit is filed by the sole plaintiff against the 4th respondent.

Except the 1st defendant, others have not filed any written statement. From the Court record, this Court finds that the private notice sent to the 2nd and 3rd defendants returned and 4th defendant has entered appearance through the counsel by name Mr.M.Devaraj, but his vakalat was returned and never represented again. The suit of the year 2016.

2. The perusal of the cause title, this Court finds that Mr.Esakkimuthu, who is the 1st defendant shown as the representative of the 2nd defendant. Therefore, the service on the 1st defendant is deemed to be served on the 2nd and 3rd defendants also. In the written statement filed by the 1st respondent, it is also specifically stated in paragraph 3 that there is no such company by name of Seafalls Solutions i.e., the 2nd defendant and it is an imaginary creation of the plaintiff. However, in the written statement, the 1st defendant admits that there is a company by name Threatscale Limited, at London and he is one of the Board of Directors and the 3rd defendant is not a necessary party in the suit.

3. In the light of the above facts as admitted by the 1st defendant in

his written statement, this Court holds that all the three defendants are deemed to have been served with summons. The 1st defendant has chosen to file written statement and he being the representative of the 2nd and 3rd defendants as per the plaintiff's case as placed on record, the defendants 2 and 3 for whom notice could not be served in spite of efforts taken by the plaintiff.

4. The Court taking note of the fact that the suit is pending for nearly five years and only recently the 1st defendant has filed his written statement disclosing his defence as well as the status of the 2nd and 3rd defendants. The Court records that the pleadings are completed, the 4th defendant who has entered appearance through his counsel and not filed the written statement, hence called absent and set *ex-parte*.

5. Since the pleadings are completed, the plaintiff is enjoying the order of interim injunction since 22.08.2016. Though the counter has been now filed by the 1st respondent/1st defendant and rejoinder also filed by the applicant/plaintiff, taking note of the fact, the matter is ripe for trial and the matter being the commercial dispute, this Court is not inclined to disturb the interim injunction already granted by this Court five years ago. Hence the interim order

granted by this Court is made absolute.

6. Post the matter for affidavit of admission and denial on 30.09.2021. Meanwhile, the learned counsels shall exercise their right of inspecting the documents.

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09.09.2021



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