

A.No.2676 of 2021
in
C.S.No.891 of 2015
and
A.No.2677 of 2021
in
C.S.No.405 of 2014

R.SUBRAMANIAN, J.

These two applications have been filed by the successful defendant in C.S.No.405 of 2014 and successful plaintiff in C.S.No.891 of 2015.

2. C.S.No.405 of 2014 was a suit for passing off filed by the respondent herein and C.S.No.891 of 2015 was a suit for damages for defamation filed by the applicant against the respondent herein. While, C.S.No.405 of 2014 was dismissed with costs. C.S.No.891 of 2015 was decreed awarding a sum of Rs.10,00,000/- with interest as damages and costs.

3. The dispute that is alive now lies in a very narrow campus. The suits were tried jointly. The applicant herein filed one set of bill of costs for both the suits before the Registry. The Assistant Registrar before whom

the matter was posted for awarding of costs felt that one set of bill of costs may not be sufficient as the Court is expected to tax costs for both the suits. Therefore, the Assistant Registrar referred the matter to the learned Master. The learned Master upon hearing the parties concluded that two sets of bills of costs must have been filed and one set is not sufficient. Aggrieved by the said direction, the applicant has come up with these applications.

4. Heard Mr.V.P.Raman, learned counsel appearing for the applicant and Mr.M.S.Bharath, learned counsel appearing for the respondent.

5. Mr.M.S.Bharath, learned counsel appearing for the respondent would raise a preliminary objection regarding maintainability of these applications which are styled as appeals against the order of the learned Master under Order XIV Rule 12 of the Original Side Rules.

6. Mr.M.S.Bharath relying upon the judgment in ***Sreyas Sripal and another vs. Upasana Finance Ltd.***, reported in ***2007 (4) CTC 161***

would contend that an appeal against the order of Master contemplated under Rule 12 of Order XIV of the Original Side Rules would lie only before the Division Bench as the Master is delegatee of the power conferred on the Single Judge of this Court. Referring to paragraph 6 of the judgment, Mr.M.S.Bharath would submit that the Single Judge cannot entertain the appeal against the order of the learned Master made pursuant to the power delegated to him under Order XIV of the Original Side Rules and hence these applications should go before a Division Bench.

7. I am unable to sustain the objection of the counsel for the respondent for the following reasons:

In *Sreyas Sripal and another vs. Upasana Finance Ltd., (supra)*, the Division Bench considered maintainability of the Second Appeal as an intra-Court appeal in view of Section 100-A of the Code of Civil Procedure. The contention there was, as against the order of the learned Master, an appeal is provided for under Rule 12 of Order XIV of the Original Side Rules and once that appeal is disposed of, the challenge to that order made in the appeal before the Division Bench would be a second

intra-Court appeal which is barred under Section 100-A of the Code of Civil Procedure. While considering the said question, the Division Bench also dealt with the scope of the power of the Single Judge under Rule 12 of Order XIV of the Original Side Rules.

8. Rule 12 of Order XIV of the Original Side Rules provides for an appeal against the order of the Master to the Single Judge. Such appeals are numbered as applications, as is the practice of this Court. The Division Bench while considering the scope of the appeal before the Single Judge held that no doubt, an appeal would not lie to the delegator against the order of the delegatee. The Master being delegatee of the powers of the Single Judge, an appeal against the order of the Master would not lie to the Single Judge.

9. However, the Division Bench in paragraph 8 of the said judgment made it clear that the word appeal under Order XIV Rule 12 is a misnomer and it is actually a power of review of this Court. Therefore, such an order passed by the Master is not appealable or revisable by the

learned Judge under Rule 12. According to the Division Bench, the power conferred under Rule 12 is really in the nature of power of Review. Therefore, the bar under Section 100-A of the Code of Civil Procedure is not attracted and an intra-Court appeal is maintainable.

10. Therefore, the above decision of the Division Bench cannot be taken as precedent for the proposition that appeal against the order of Master would directly lie to the Division Bench and not the Single Judge. The Division Bench itself had recognized the power of review which lies in the learned Single Judge of this Court pursuant to Rule 12 of Order XIV of the Original Side Rules. I therefore, over-rule the objection of the counsel for the respondent on the maintainability of the appeal.

11. Coming to the merits, I find that the contention of Mr.V.P.Raman, learned counsel appearing for the applicant that he cannot be directed to file two bills of costs cannot be countenanced. No doubt, the suits were tried jointly, but, there are two separate decrees, one decree is the dismissal of C.S.No.405 of 2014 with costs of the defendant and the other

is a decree for damages for defamation granted in C.S.No.891 of 2015 with costs. Therefore, necessarily the successful party will have to file two bills of costs one in each suit.

12. The next contention of Mr.V.P.Raman would be that if he is directed to file two bills of costs by splitting up the costs, he would have to seek condonation of delay. I do not think that should bother him from filing two bills of costs. Since the bills of costs were filed within time and it was felt to be insufficient by the Master, I do not think that the question of delay would arise. In any event the counsel is directed to file the bills of costs within a period of 10 days from today.

13. The Registry is directed to entertain the same without insisting upon an application for condonation of delay. The sufficiency or reasonableness of the costs to be taxed will be decided by the Registry as directed by Hon'ble Mr.Justice C.V.Karthikeyan in his order dated 16.02.2021 made in the applications in A.Nos.502 and 503 of 2021.

14. It is open to the counsel to apportion the costs equally wherever costs are incurred jointly.

15. Accordingly, these applications are **disposed of**.

16.08.2021

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