



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 12TH DAY OF AUGUST 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

A.Nos.2781 AND 2782 of 2021

in

C.S.No.2 of 2021

Kansai Nerolac Paints Limited

Represented by its authorised representative

Nerolac House, Ganapatrao Kadam Marg,

Lower Parel, Mumbai, Maharashtra-400 013.

: Plaintiff

Vs

1.Perungudi Real Estates Private Limited,

110, Old SRP Tools,

Rajiv Gandhi Salai,

OMR Road, Thiruvananthapuram,

Chennai-600 041.

2.Brigade Enterprises Limited,

29th & 30th Floors,

World Trade Centre, Brigade Gateway Campus,

26/1, Dr.Rajkumar Road,

Malleswaram-Rajinagar,

Bangalore-560 055.

3.Brigade Properties Private Limited,

29th & 30th Floors,

World Trade Centre, Brigade Gateway Campus,

26/1, Dr.Rajkumar Road,

Malleswaram-Rajinagar,

Bangalore-560 055.

..Defendants

**A.Nos.2781 and 2782 2021**

1.Perungudi Real Estates Private Limited,
110, Old SRP Tools,
Rajiv Gandhi Salai,
OMR Road, Thiruvannamiyur,
Chennai-600 041.

..Applicant/first Defendant

Vs

1.Kansai Nerolac Paints Limited
Represented by its authorised representative
Nerolac House, Ganapatrao Kadam Marg,
Lower Parel, Mumbai, Maharashtra-400 013. ..First Respondent/Plaintiff

2.Brigade Enterprises Limited,
29th & 30th Floors,
World Trade Centre, brigade Gateway Gampus,
26/1, Dr.Rajkumar Road,
Malleswaram-Rajainagar,
Bangalore-560 055. ..Second Respondent/Second Defendant

3.Brigade Properties Private Limited,
29th & 30th Floors,
World Trade Centre, brigade Gateway Gampus,
26/1, Dr.Rajkumar Road,
Malleswaram-Rajainagar,
Bangalore-560 055. ..Third Respondent/Third Defendant

A.No.2781 of 2021:

Application praying that this Hon'ble Court be pleased to grant a stay of the cross examination of the PW-1 viz. Mr.G.T.Govindarajan, pending disposal of the above application to strike out the proof affidavit dated 26.07/2021 of PW-1 viz. Mr.G. T. Govindarajan.

A.No.2782 of 2021:

Application praying that this Hon'ble Court be pleased to strike out the proof affidavit dated 26/07/2021 of PW-1 (Mr.G.T.Govindarajan) in its entirety or such part thereof of the said proof affidavit as this Hon'ble Court.



These Applications coming on this day before this court for hearing, the Court made the following order:

Application No.2781 of 2021 is filed by the first defendant to grant stay of the cross examination of P.W.1 pending disposal of the application No.2782 of 2021 to strike out the proof affidavit of P.W.1.

2.After receipt of the proof affidavit of PW1 and examining the witnesses in chief by marking the documents, the application A.No.2782 of 2021 is taken out by the first defendant to strike off the proof affidavit of P.W.1, since the proof affidavit is not in compliance with Order XIX Rule 6(b) of CPC as amended by the Commercial Courts Act.

3.Learned Senior Counsel appearing for the plaintiff would fairly submit that there are some variation which is not in compliance with the provisions of Order XIX Rule 6(b) of CPC. Therefore, seeks leave to withdraw the proof affidavit and permission to file fresh proof affidavit and conduct de novo trial by eschewing evidence so far recorded in respect of P.W.1.

4. This Court is of the view that instead of striking the portions of the proof affidavit, which are not in compliance with Order XIX Rule 6(b) of C.P.C., for better appreciation of evidence, the entire proof affidavit may be permitted to be withdrawn. The evidence so far recorded stands eschewed.



Accordingly, both the applications are disposed of in the above terms. No order as to costs.

Post the suit on **17.08.2021**.

Sd./-G.J.J
12.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

Jj 16/08/2021