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O.A.No.565 of 2021
in
C.S.(Comm. Div.)No.58 of 2021

M.SUNDAR, J.,

Read this in conjunction with and in continuation of separate proceedings made in the main suit today (01.11.2022) which reads as follows:

'Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 30.09.2022 which reads as follows:

'In these proceedings, parties are referred to by their respective ranks in the main suit for the sake of convenience and clarity.

2. Mr.M.Arun Kumar, learned counsel of M/s.Sampathkumar & Associates (Law Firm) for sole plaintiff is before this Commercial Division but there is no representation for lone defendant though the name of counsel for lone defendant is shown in the cause list, however with the intention of giving opportunity to lone defendant and lone defendant's counsel, list this matter after Dussehra Holidays and Diwali Vacation. List on 01.11.2022.'

2. Mr.M.Arun Kumar, learned counsel of



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M/s.Sampathkumar & Associates (Law Firm) for sole plaintiff is before this Commercial Division.

3. Notwithstanding earlier proceedings made on 30.09.2022, there is no representation for defendant today also.

4. A perusal of case file brings to light that sole defendant has been duly served with suit summons on 22.09.2021.

5. In the light of proviso to Rule 1 of Order VIII of 'amended Code of Civil Procedure, 1908' [hereinafter 'amended CPC' for brevity and convenience] as amended by the 'Commercial Courts Act, 2015 (4 of 2016)' [hereinafter 'CCA' for the sake of convenience and clarity], defendant has forfeited his right to file written statement as 120 days from the date of service of suit summons elapsed on 20.01.2022. Owing to this legal position and in the light of the trajectory the matter has taken, sole defendant is set ex parte.

6. List the captioned suit before learned Master of this Court for recording ex parte evidence on 08.11.2022.

7. Learned counsel for plaintiff submits that there is only one witness and no more than 15 documents to be marked as exhibits. Learned counsel submits that recording of ex parte evidence can be completed on the same day.

8. Learned Master is requested to do the needful.

9. In the light of the defendant being set ex parte,



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learned counsel for plaintiff submits that it may really not be necessary to file written arguments.

10. Learned Master to post the matter before this Commercial Division after completion of the aforementioned exercise and let the matter appear before this Commercial Division under the cause list caption 'FOR ORAL ARGUMENTS' on 10.11.2022.'

2. In these proceedings also, parties shall be referred to by their respective ranks in the main suit for the sake of convenience and clarity.

3. The aforementioned proceedings are tell tale qua the trajectory the matter has taken.

4. Learned counsel for defendant (respondent in captioned application) has entered appearance through counsel and name of counsel is duly shown in the cause list but none appears.

5. To be noted, proceedings in the previous listing on 30.09.2022 reads as follows:

'In these proceedings, parties are referred to by their respective ranks in the main suit for the sake of convenience



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and clarity.

2. *Mr.M.Arun Kumar, learned counsel of M/s.Sampathkumar & Associates (Law Firm) for sole plaintiff is before this Commercial Division but there is no representation for lone defendant though the name of counsel for lone defendant is shown in the cause list, however with the intention of giving opportunity to lone defendant and lone defendant's counsel, list this matter after Dussehra Holidays and Diwali Vacation. List on 01.11.2022.'*

6. Lone defendant in the main suit (respondent in the captioned application) has not chosen to file counter affidavit much less vacate injunction application.

7. In the light of the trajectory the matter has taken, interim order granted by Hon'ble predecessor Judge on 21.09.2021 (order of Interim Injunction) and extended from time to time which is now operating is made absolute.

8. Captioned application is disposed of in the aforesaid manner.
There shall be no order as to costs.



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