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*A.No.4156 of 2022
in C.S.No.285 of 2020 (Comm. Suit)*

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(Comm. Suit)

M.SUNDAR, J.,

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

2. Captioned application has been taken out by sole plaintiff and lone defendant is obviously lone respondent.

3. Mr.T.K.Ramkumar, learned counsel along with Mr.R.S.Varadarajan, Ms.Sumitha Vibhu and Mr.N.Swaminathan for plaintiff and Mr.Ramkumar Natarajan, learned counsel representing Mr.M.S.Bharath, learned counsel of M/s.Kria Law (Law Firm) for lone defendant are before this Commercial Division.

4. Captioned application has been filed seeking leave of this Commercial Division to bring on record three documents which were not



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WEB CO filed along with the plaint. Learned counsel for plaintiff submits that the documents now sought to be received are post suit documents as they are registration of trademarks qua applications for registration which were pending at the time of presentation of the plaint.

5. Learned counsel for defendant very fairly submits that there may be no serious objection to the prayer considering the innocuous nature of the same but the documents sought to be brought on record shall be received subject to proof and relevance. There is no difficulty in accepting this submission and putting a caveat in this regard.

6. Before writing the operative portion of this order, this Commercial Division deems it appropriate to make one position clear. A perusal of Judge's Summons in the captioned application brings to light that two substantive provisions (Order XIV Rule 8 of Original Side Rules of Madras High Court is not taken as a substantive provision) have been invoked and they are Order VII Rule 14 of 'Code of Civil Procedure, 1908 (Central Act V of 1908)' [hereinafter 'CPC' for the sake of brevity] and



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WEB COPY Order XI Rule 1(5) 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].

7. As regards invoking the second provision namely, Order XI Rule 1(5) of amended CPC is concerned, there is no difficulty but Order VII Rule 14 of CPC does not apply to the suits or applications before Commercial Division. This is clearly set out in 7 of clause (E) of Schedule to CCA which in turn is traceable to Section 16 of CCA. To be noted, this clause (E) of Schedule to CCA talks about entire Order XI of CPC being substituted by another order i.e., Order XI as set out in Schedule to CCA. 7 of clause (E) of Schedule to CCA reads as follows:

'7. Certain provisions of the Code of Civil Procedure, 1908 not to apply, - For avoidance of doubt, it is hereby clarified that Order XIII, Rule 1, Order VII, Rule 14 and Order VIII, Rule 1-A of the Code of Civil Procedure, 1908 (5 of 1908) shall not apply to suits or applications before the Commercial Divisions of High Court or Commercial Courts.'



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8. The above makes it clear that Order VII Rule 14 CPC is not applicable to suits and applications in the Commercial Division. Registry will do well to take note of these provisions in the days to come and ensure that the applications under Order VII Rule 14 CPC and obviously, other two provisions (Order XIII Rule 1 and Order VIII Rule 1-A of CPC) are not entertained insofar as Commercial Division is concerned as the same do not apply.

9. Captioned application ordered albeit with usual rider that the three documents sought to be received are subject to proof and relevance. There shall be no order as to costs.

19.10.2022
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