



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

O.S.A.Nos.402 & 403 of 2018
and
C.M.P.Nos.3053, 4688, 4693 & 3051 of 2021

S.Mukanchand Bothra (Died)
2.M.Karishma Bothra
3.M.Gagan Bothra
4.M.Sandeep Bothra)

.. Appellants in both OSAs

(Appellants 2 to 4 brought on record as the LR's of the deceased sole appellant viz., S.Mukan Chand Bothra vide order dated 17.04.2021 made in C.M.P.Nos.3054 & 4698 of 2021 in O.S.A.Nos.402 & 403 of 2018)

Vs.

1.Shivaji Rao Gaikwad @ Rajnikanth
2.R.Krishnamurthy @ Kasthuri Raja

.. Respondents in O.S.A.402 / 2018

1.R.Krishnamurthy @ Kasthoori Raja
2.Shivaji Rao Gaikwad @ Rajnikanth

.. Respondents in O.S.A.403 / 2018

Appeals filed under Order XXXVI Rule II of the Original Side Rules r/w Clause 15 of the Letter Patent against the fair order and decretal order dated 24.07.2018 made in A.Nos.4433 & 4747 of 2015 in C.S.No.400 of 2015.

Prayer in A.Nos.4433 & 4747 of 2015 in C.S.No.400 of 2015:-

Judges summons filed under order XIV Rule 8 of original side Rules Read with order VII Rule 11(a) of CPC praying to reject the plaint with exemplary costs.

Judges summons filed under order XIV Rule 8 of original side Rules Read with order VII Rule 11 and order II Rule 2 and Section 151 of CPC praying to reject the suit in CS.No.400 of 2015 on the file of the Hon'ble High Court in CS.No.400 of 2015



under order VII Rule 11(a) since it does not disclose any cause of action.

Prayer in CS.No.400 of 2015:-Plaint filed under order VII Rule 1 of CPC Read with order IV Rule 1 of OS Rules praying that this Hon'ble Court may be pleased to pass a Judgment and decree against the defendant as follows:-

i) Issuing mandatory direction directing the 1st defendant to take / initiate action against the 2nd defendant from misusing his name without his consent permission like he did in CS.No.598 of 2014 within a stipulated period of 4 weeks.

ii) In the event of failure to do so, to declare that there is collusion between the 1st defendant and 2nd defendant.

iii) Cost of the suit be provided.

Appellant : Mr.M.Gagan Bothra - no appearance
(in both O.S.As)

For Respondents : Mr.D.Ravichander (R1)
(in both O.S.As) Mr.S.Haja Mohideen Gisthi (R2)

C O M M O N J U D G M E N T

(JUDGMENT WAS MADE BY M.DURAI SWAMY, J.)

When the matter was listed for hearing on 31.03.2022, the appellant, appearing in person was not present, hence, the matter was adjourned to 25.04.2022. On 25.04.2022, there was no representation for the appellant, hence, the Registry was directed to list the matter under the caption "for dismissal" on 28.04.2022. When the matter was listed under the caption "for dismissal" today, Mr.M.Gagan Bothra, appellant, appearing in person, made a mention at 10:30 a.m. seeking for adjournment. However, this Bench declined to grant adjournment on the ground that the matter has been listed under the caption "for dismissal". This Bench also directed the appellant, appearing in person, to be present before this Court when the matter is called.

2. In spite of the said direction, when the matter was called, the appellant appearing in person was not present, hence, this Court has no other option except to dismiss the appeals for non-prosecution.



3. Before dismissing the appeals for non-prosecution, we also record that the appellant, appearing in person, did not appear before this Court even on 18.06.2021, 08.02.2022 and 10.02.2022. The conduct of the appellant would establish that he is not interested in prosecuting the appeals and that his aim is only to drag on the matter and keep the appeals pending.

4. Accordingly, the Original Side Appeals are dismissed for non-prosecution. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

va

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras - 104.

O.S.A.Nos.402 & 403 of 2018

and

C.M.P.Nos.3053, 4688, 4693 & 3051 of 2021

NRJK[co]

NSK 09/05/2022