



CMA No.1158 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

Civil Miscellaneous Appeal No.1158 of 2023

1.K.Dhamodarasamy Naidu & Brothers,
A registered Partnership Firm,
rep. By its Power Agent,
Mr.Jegan S.Damodarasamy

2.Sree Annapoorna Sree Gowrishankar Hotels Pvt.Ltd.,
rep. By its Executive Director,
Mr.Jegan S.Damodarasamy

... Appellants

versus

1.M/s.Tiruppur Sree Annapporna,
A Partnership Firm, rep. By its Partner,
Mr.Venkatesh Dheenadayalan and
Mrs.Vasanthi Dheenadayalan

2.Venkatesh Dheenadayalan
Partner, M/s.Tiruppur Sree Annapporna

3.Vasanthi Dheenadayalan
Partner, M/s.Tiruppur Sree Annapporna

... Respondents

Prayer: Appeal filed against the order dated 27.02.2023 in IA No.5 of 2022 in O.S.No.231 of 2018 by the Principal District Judge, Coimbatore.

For the Appellants :: Mr.R.Udhaya Kumar



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JUDGMENT

(Made by the Hon'ble Chief Justice)

Heard Mr.R.Udhaya Kumar, learned counsel for the appellants.

2. The appellants assail the order dated 27.02.2023 in IA No.5 of 2022 in OS No.231 of 2018, whereby the application filed by the appellants for mandatory injunction was rejected.

3. On a perusal of the impugned order, it transpires that the learned Trial Judge while rejecting the application has not traversed the pleadings of the parties on merits. The learned Trial Judge has observed that the application is filed by the appellants for violation of the *status quo* order passed by this Court and the same is pending enquiry. The High Court, in an appeal, has directed the parties to co-operate for completion of the trial of the suit. In view of that, the Trial Court has observed that it is not inclined to order any further interim orders in the suit.

4. Learned Counsel for the Appellants submit that during the



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enforcement of the *status quo* order, the respondents/defendants had opened another shop and were trying to use the trademark of the present appellants.

The subsequent fact necessitated the appellants to file an application for mandatory injunction and also an application for violation of the order of *status quo*. Though the application for violation of the order of *status quo* is pending consideration by the Trial Court, there is no impediment for the Trial Court to consider the present application for mandatory injunction on merits. It is the further contention of the learned counsel that appellants/plaintiffs have already let in evidence and also cross-examined witnesses. Now, the matter is posted for marking the documents and the evidence of the respondents/defendants. The respondents/defendants are prolonging the matter. The learned trial Judge is seeking extension of time from this Court for disposal of the suit.

5. It transpires that the learned trial Judge, while disposing of the application, has not decided the same on merits. There was an earlier round of proceedings being filed before this Court. The present respondents had filed CMA No.3286 of 2019 against the order of injunction granted by the Trial Court. In the said matter, this Court had directed the Principal District Judge,



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Coimbatore, to try the suit and dispose of the same within a period of six months and directed the parties to maintain *status quo*. The said order was passed on 20.11.2019. More than 3½ years have lapsed after the order is passed by this Court. It is expedient that the Trial Court decides the suit expeditiously, considering the directions given by this Court, way back on 20.11.2019 in CMA No.3286 of 2019.

6. In light of the above, we expect that the Trial Court makes an endeavour to decide the suit itself as expeditiously as possible and preferably within a period of three months. That would serve the ends of justice. As the learned trial Judge has not discussed the merits of the matter while rejecting the application of the appellants while passing the impugned order, we have also not considered the same on merits.

7. With the aforesaid observation, the appeal is disposed of. There will be no order as to costs.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No



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(tar)

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