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OA.No.817 of 2022

OA.No.817 of 2022

OA.No.871 of 2023

in

C.S.No.273 of 2022

Reserved on 16.06.2023	Delivered on 26.06.2023
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K.KUMARESH BABU,J.

Heard Mr.K.Ravi, learned Senior counsel appearing for M/s.Rugan & Arya for the applicants and Mr.P.Anandan, learned counsel appearing for the respondents.

2. In these applications the plaintiffs have sought for interim injunction from interfering with his possession without due process of law and for a direction to the concerned Inspector of Police to offer adequate protection to the plaintiff and the suit schedule properties B, C, D & E in particular. The plaintiff had impleaded a known party as the first defendant and also seeks a John Doe order.

3. When the application for injunction was taken, this court had granted an injunction for a period of three weeks and also permitted the applicant to take private notice and also to effect paper publications. When the applications were taken for further hearing, an advocate had entered appearance on behalf of the first respondent/defendant and



OA.No.817 of 2022

WEB COPY

sought time to file his Vakalath and counter in the applications. However during the next date of hearing, the advocate had represented that the first respondent had not further instructed to act on his behalf. Recording the same, this court had directed issuance of fresh notice to the first respondent to be served on him. However in the interregnum, there was a representation from the applicants in A.No.2996 Of 2023 seeking to intervene themselves as necessary parties to the suit. The said application had been disposed of in view of the withdrawal and transfer of O.S.No.13660 of 2010.

4. It is pertinent to note that the first respondent had been represented by an advocate before this court on 24-01-2023. This would mean that the first respondent is aware of the proceedings before this Court, but however for the best reasons he is avoiding appearance before this Court. As regards the second respondent the applicant seeks John Doe order.

5. The concept of an John Doe order is to provide pre-infringement injunction & is granted in the intellectual property rights of the creator of an artistic work against unknown nameless infringers who have infringed the copyrights of the original owner or anyone attempting to do so since



OA.No.817 of 2022

WEB COPY

till such time the defendants are identified. I am not able to place hands on any previous decision where the concept of a John Doe order has been applied to the suits such as the one under consideration. The present suit is for a permanent injunction against named and unnamed persons from interfering with the peaceful possession of the suit properties by applicant/plaintiff. In my view if a John Doe order is issued in such cases, there could be the possibility of unscrupulous persons in invoking the said principles to obtain an order as against the original owners/occupiers. This will only lead to further litigations. This Court has also to guard itself from entertaining such litigations. Hence I am afraid that the principle of John Doe order could be extended to this litigation. Since I have come to the conclusion that the first respondent is very much aware of the proceedings before this Court and that he had not made any attempt to enter his appearance till date, the order of injunction made by this Court on 02-01-2023, is made absolute as against him.

7. As regards the application seeking protection, I am of the opinion that the same could be ordered subject to payment of costs by



OA.No.817 of 2022

WEB COPY

the applicant, since the respondent had not appeared before this Court to counter the allegations made by the applicant. Further granting such a relief would not only protect the property but also the interest of the applicant herein and also the counter parties in the other suit pending before the City Civil Court.

8.In fine

- a)the injunction granted against the first respondent by order dated 02-1-2023, is made absolute.
- b)The Inspector of Police, K2, Ayanavaram Police Station, Medavakkam Tank Road, Next to ESI Hospital, Ayanavaram, Chennai – 600 023 is directed to give police protection to the schedule B, C, D &E of the judge's summons on the plaintiff remitting the costs as applicable.
- c) Accordingly, O.A.Nos.817 of 2022 & O.A.No.871 of 2023 are allowed, on the terms stated above.

26.06.2023

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Index :Yes/No

Internet:Yes/No



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OA.No.817 of 2022

K.KUMARESH BABU.,J

pbn

Pre-delivery Judgment in

OA.No.817 of 2022

OA.No.871 of 2023

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26.06.2023