



C.M.P. No.15704 of 2024
in
O.S.A. (CAD) No.63 of 2022

WEB COURT

M.SUNDAR,J.

and

K.GOVINDARAJAN THILAKAVADI, J.

(Order of the Court was made by M.SUNDAR, J.)

Captioned Original Side Appeal along with C.M.Ps. thereat were disposed of by this Court in and by an order dated 11.06.2024 and as regards the captioned modification C.M.P., the most relevant portion of our 11.06.2024 order is paragraph 5 which consists of 8 sub paragraphs and the same reads as follows:

'5. In the light of the narrative thus far, the following order is made:

5.1 As pleadings are complete suit will be listed on the Original Side of this Court for framing issues on Friday i.e., 14.06.2024 and both sides agree to complete this exercise by 28.06.2024;

5.2 Mr.V.Paul Das (retired Sub Judge), residing at No.82/106, Perambur High Road Lane, Jamaliam, Chennai - 600 012 (Mobile No.9443494445) is appointed as Commissioner for recording evidence;

5.3 Learned Commissioner will not have any adjudication powers and this means that if there is any objection to marking of any document or any other objection qua deposition or marking of exhibits same shall be recorded and a final call on the same will be taken by the Hon'ble Single Judge after the exercise of recording deposition and marking documents is completed;

5.4 The aforementioned exercise i.e., recording deposition and marking exhibits shall be commenced on 01.07.2024 and completed as expeditiously as possible but in any event by 31.07.2024;

5.5 Remuneration of Mr.V.Paul Das is fixed at Rs.1,50,000/~ to be borne in equal moieties by the plaintiff on one side and all the defendants put together on the other side, the fifth defendant is



excluded from these two moieties as it is only a formal party;

5.6 Learned Commissioner is requested to send the recorded deposition and exhibits in a sealed cover to the Hon'ble Judge (through learned Registrar General of this Court) on the Original Side who is requested to decide the matter as expeditiously as the business of the Court would permit;

5.7 As already alluded to supra, both sides i.e., plaintiff and defendants 1 to 4 shall maintain status quo as of today not only with regard to alienation of suit property but in all other aspects which would impact the lis.

5.8 The fifth defendant/official respondent is directed to take note of this order and ensure strict compliance.'

2. Mr. SK. Rahul Vivek for petitioner and Ms. S. Vaitheeswari for respondent are before us.

3. Both learned counsel very fairly submit that the timelines could not be adhered to and the modification seeks fresh timelines.

4. In the light of consensus between both parties, paragraph 5.1 and 5.4 of our order dated 11.06.2024 are modified as follows:

5.1 We are informed that the suit is next scheduled to be listed on 08.08.2024. Both parties submit that they have already filed draft issues and they also agree that they will make every effort to assist the Hon'ble Court in issues being framed on 08.08.2024 itself. However, issues would be framed either on 08.08.2024 or any other rescheduled date at the discretion of the Hon'ble Single Judge concerned (Commercial Division).



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5.4 The above mentioned exercise, *i.e.*, recording deposition and marking exhibits shall commence within a fortnight from date of framing issues. The first sitting shall be immediately after a fortnight from the date of framing of issues. In this fortnight, the parties shall send list of witnesses and documents (if not filed with the pleadings) to the learned Commissioner. The learned Commissioner, on commencing the aforementioned exercise with regard to recording deposition and marking exhibits shall complete the same as expeditiously as possible but in any event within four weeks from the date of first sitting.

In all other aspects, our earlier order dated 11.06.2024 will remain the same.

5. In the light of the above modifications, captioned CMP is ordered.

(M.S., J.) (K.G.T., J.)
05.08.2024

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