



WEB COPY



O.S.A (CAD) No.156 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.06.2024**

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

O.S.A (CAD) No.156 of 2022

&

C.M.P.No.19734 of 2022

in

O.S.A (CAD) No.156 of 2022

1.M/s.Arogya Sukh
A Partnership Firm
Represented by its Partners
Mr.Ganesh Chaudhary and Mrs.Khushboo Chaudhary

2. Mr.Ganesh Chaudhary
A partner of-
M/s.Arogya Sukh

3.Mrs.Kushboo Chaudhary
A partner of-
M/s.Arogya Sukh

All are having office at
1-1/8 to 10,11,12,14 and 16
Shop No.6, Golkonda X Road
Hyderabad – 500 020

... Appellants

Vs.

HatsunAgro Product Ltd.,
Having Registered Office at No.1/20-A, Rajiv Gandhi
Salai (OMR), Kalapakkam, Chennai – 600 097



O.S.A (CAD) No.156 of 2022

And also carrying on its business at
Old No.AD-83/New No.AD 13, Anna Nagar
Opp. IOB Tower Branch, Chennai – 600 040
Represented by its Authorized Signatory
Mr.P.Sivasakthivel

.. Respondent

Original Side Appeals filed under Order XXXVI Rule 9 of Original Side Rules read with Rule 9 of the Original Side Rules read with Section XIII-A of Commercial Courts Act, 2015 to set aside the order dated 27.06.2022 passed in A.No.1627 of 2022 in C.S.No.131 of 2021.

For Appellants : Mr.Suvendra Kumar Panda

For Respondent : Ms.Y.K.Aiswarya
of M/s.Surana and Sura (Law Firm)

COMMON JUDGMENT

(Judgment of the Court was delivered by **M.Sundar, J.**)

In the captioned matter, Mr.Suvendra Kumar Panda, learned counsel on record for three appellants in the main OSA and petitioner in the captioned CMP is before us on the 'VC' ['Videoconferencing'] platform. Ms. Y.K.Aiswarya of M/s.Surana and Surana (Law Firm) for sole respondent is before us in the physical Court. To be noted, this is a hybrid hearing, which is a regular/daily/routine feature in this Court.

2. The three appellants before us are three defendants in C.S.No.131 of 2021 before Hon'ble Commercial Division. These three



defendants took out an application in A.No.1627 of 2022 seeking a summary judgment under Order XIII-A of 'amended the 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 brevity, convenience and clarity]. This was resisted by the sole plaintiff, which was the sole respondent in the application. To be noted, the sole plaintiff is lone respondent before us in the captioned appeal.

3. After full contest, Hon'ble single Judge then presiding over the Commercial Division in and by judgment / order dated 27.06.2022 dismissed the application for summary judgment saying that the defendants have failed to establish that the plaintiff have no real prospects of succeeding in the suit claim. Assailing 'this 27.06.2022 judgment/order in A.No.1627 of 2022' [hereinafter 'impugned judgment' for the sake of brevity], the unsuccessful defendants have preferred the captioned appeal. Notice was ordered and the lone respondent is also before us.

4. Be that as it may, both the aforementioned learned counsel tell us that the main suit itself proceeded in the *interregnum* i.e., pending



O.S.A (CAD) No.156 of 2022

captioned appeal and it is at a very advanced stage i.e., it is scheduled to be listed for oral arguments (post written arguments) on 06.07.2024.

5. Both learned counsel, therefore, submit that it would be desirable to have the main suit heard out rather than pursuing this appeal. In the light of common submission, captioned OSA and captioned CMP thereat are disposed of as closed albeit with a clarifying rider that Hon'ble Commercial Division shall now decide the main suit on its own merits and in accordance with law *inter-alia* based on the oral and documentary evidence before it besides the arguments of learned counsel on both sides untrammelled by / *de hors* the impugned judgment i.e., summary judgment dated 27.06.2022 made in A.No.1627 of 2022 in C.S.No.131 of 2023. We also make it clear that both sides shall not press into service the impugned judgment in the arguments in the main suit.

Captioned OSA and captioned CMP thereat are disposed of as closed albeit with the aforementioned observation. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
04.06.2024

Index: Yes/No
Neutral Citation: Yes/No
gpa



WEB COPY



O.S.A (CAD) No.156 of 2022

M.SUNDAR.J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

gpa

O.S.A (CAD) No.156 of 2022
&
C.M.P.No.19734 of 2022
in
O.S.A (CAD) No.156 of 2022

04.06.2024