



O.S.A.(CAD) No. 158 of 2022
&
C.M.P. Nos. 20485 & 20486 of 2022
in
O.S.A.(CAD) No. 158 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM

THE HON'BLE MR. JUSTICE M. SUNDAR

AND

THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

O.S.A. (CAD) No. 158 of 2022

&

C.M.P. Nos. 20485 & 20486 of 2022

in

O.S.A.(CAD) No. 158 of 2022

Bharat Sevak Samaj – Tambaram
rep. by its Director,
BSS Programmer Office, BSS Tower,
Bharati Nagar, First Main Road,
Tambaram East, Chennai – 600 063.

..Appellant

Vs.

1. Pradesh Bharat Sevak Samaj
rep. by its President
Mr. Boopathi Desiappan,



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Presently Office at No. 2580,
First Floor, Kamarajar Salai,
3rd Main Road, Mathur MMDA,
Chennai – 600 068.
Having registered office at
No. 690/555, Poonamallee High Road,
1st Floor, Aminjikarai,
Chennai – 600 029.

2. Bharat Sevak Samaj – Kerala Pradesh,
Cyber Bhavan, EVRA 423,
Eswaravilasam Road,
Vazhuthacaud, Thiruvananthapuram,
Kerala 695 014.

..Respondents

Prayer: Original Side Appeal as against the judgment and decree dated
20.07.2022 passed in O.A. No. 808 of 2021 in C.S. (Comm.Div) No. 118 of
2021.

For Appellant :: Ms. Mithreyi Kasthurirangan for
Mr.K. Harishankar
(vakalath to be filed)

For Respondents :: Ms.T. Vanitha for
Mr. J. Umacharan for R1
R2 left



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J U D G M E N T

(Delivered by M. SUNDAR,J.)

This common judgment/order will now dispose of captioned main 'Original Side Appeal' ('O.S.A.' for the sake of brevity) and captioned 'Civil Miscellaneous Petitions' ('C.M.P.s' in plural and 'C.M.P.' in singular for the sake of brevity) thereat.

2. Captioned intra court appeal i.e, O.S.A has been filed in this 'Commercial Appellate Division' ('CAD' for the sake of brevity) on 22.11.2022 assailing an order dated 20.07.2022 made in O.A. No. 808 of 2021 in C.S. (Comm.Div) No. 118 of 2021 by Commercial Division of this Court. To be noted, the order dated 20.07.2022 shall hereinafter be referred as 'impugned order' for the sake of convenience and clarity.

3. Main suit i.e., C.S. (Comm. Div.) No. 118 of 2021 was filed in the Commercial Division of this Court with prayers qua infringement of



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trademark. To put it differently, main suit is a trademark infringement suit. Pending suit, plaintiff took out three applications namely, O.A.Nos. 808 to 810 of 2021 thereat with interim injunction prayers and the three O.As came to be disposed of by the impugned order, which is a common order. As already alluded to supra, captioned O.S.A has been filed against the order in O.A. No. 808 of 2021 wherein and whereby the Commercial Division has acceded to the interim injunction prayer. To be noted, 1st respondent before Commercial Division is appellant before us; applicant before Commercial Division is 1st respondent before us and 2nd respondent before Commercial Division is 2nd respondent before us too.

4. In the listing today, Mr.P.T. Nalin Kumar, learned counsel for appellant reported no instructions and has filed a memo dated 11.06.2024 in this regard. A scanned reproduction of the memo together with the courier acknowledgement and Docket is as follows:



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IN THE HIGH COURT JUDICATURE AT MADRAS
APPELLANT SIDE
O.S.A.(CAD),NO.158/2022

Bharath Sevak Sarnaj,
Tambaram, Chennai

vs

Pradesh Bharat,
Sevak Sarnaj,
And another

...Appellant

...Respondents

MEMO FILED BY THE APPELLANT

The above O.S.A bundle has been sent to the appellant by courier with consent Vakalat on 16.09.2023.
Therefore, the counsel reports 'No instructions'.

Dated at Chennai on this 11th day of June, 2024.


COUNSEL FOR APPELLANT



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Dr: **16/06/2022**

Time: **16/06/2022**

Place: **CHENNAI**

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BEFORE THE HON'BLE JUSTICE
M. SUNDAR (BENCH) on 11.6.20

Cx
1.23

I SET

IN THE HIGH COURT
JUDICATURE AT MADRAS
APPELLANT SIDE
O.S.A.(CAD).NO.158/2022

Bharath Sevak Samaj,
Tambaram, Chennai
....Appellant

Vs

Pradesh Bharat
Sevak Samaj,
And another
...Respondents



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MEMO FILED BY THE
APPELLANT

V.K.VIJAYARAGHAVAN
P.T.NALIN KUMAR
COUNSEL FOR APPELLANT
CELL: 9445450628



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5. Ms. Mithreyi Kasthurirangan, learned counsel representing Mr.K. Harishankar with address for service at No.70, Law Chambers, Madras High Court, Chennai 600 104, who is before us, submits that Mr.K. Harishankar has instructions to file change of vakalathnama for the appellant and that the same will be done by 18.06.2024. Though captioned O.S.A and C.M.Ps would now be disposed of by this common judgment/order, Registry is directed to receive the vakalathnama, if filed on or before 18.06.2024 and register the same, if in order.

6. As regards 1st respondent, Ms. T. Vanitha, learned counsel representating Mr.J. Umacharan, learned counsel on record for 1st respondent is before us. Notice sent to 2nd respondent (according to cause list) has been returned as 'left' but that really does not matter and will not impact this order owing to the trajectory the matter has taken today, which is set out infra.



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7. Ms. T. Vanitha, learned counsel representing Mr.J.Uma Charan, learned counsel on record for 1st respondent submitted that main suit i.e, C.S. (Comm.Div) 118 of 2021 itself has since been decreed by Commercial Division in and by judgment dated 18.03.2024 pending captioned O.S.A. Saying so, learned counsel has placed before us the final judgment in the main suit namely, C.S. (Comm.Div.) 118 of 2021, the operative portion of which reads as follows:

'9. For the foregoing reasons, the suit is decreed as prayed for in the plaint and this Court passes a judgment and decree in favour of the plaintiff against the 1st defendant by granting the following reliefs:-

a) Permanent Injunction restraining the 1st defendant, their agents and or anyone from in any manner by infringing the registered trademark logo of plaintiff in the 1st defendant course completion certificate.

b) Permanent Injunction restraining the 1st defendant, their agents and or anyone from in any manner



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*running and conducting the vocational courses in
Tamil Nadu, Andhra Pradesh, Karnataka and
Maharashtra.*

*c) Permanent Injunction restraining the 1st defendant,
their agents and or anyone from in any manner of
misrepresenting in News Magazine, Publication, that
the plaintiff course completion certificates are fake
and posting the content that plaintiff issuing fake
certificate in the 1st defendant website.*

*d) The 1st defendant is directed to pay costs of the
suit to the plaintiff.'*

8. From the narrative supra, it is clear that captioned O.S.A has become infructuous since it is directed against an interim order made in the main suit and the main suit itself has since been decreed.

9. Regarding the aforesaid stated position, it is not subjected to any disputation or contestation by the parties and it is borne out by records.



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We deem it appropriate to write that the captioned O.S.A is disposed of as closed having become infructuous albeit making it clear that the rights and contentions of all parties concerned, as regards main judgment and decree in the main suit, remain preserved without being impacted by this order. Consequently, captioned C.M.Ps are also disposed of as closed. There shall be no order as to costs.

nv

(M.S.J.) (K.G.T.J.)
11.06.2024

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order



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