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O.S.A. No. 340 of 2019
&
C.M.P. No. 27467 of 2019
in
O.S.A. No. 340 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

CORAM

THE HON'BLE MR. JUSTICE M. SUNDAR

AND

THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

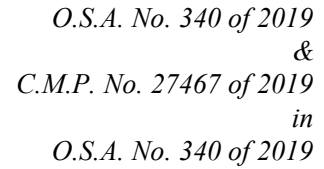
O.S.A. No. 340 of 2019
&
C.M.P. No. 27467 of 2019
in
O.S.A. No. 340 of 2019

1. C. Murali Kannan
2. M. Srinivasan
3. B. Ramachandran ..Appellants

Vs.

Mr.N. Sathish ..Respondent

Prayer: Original Side Appeal under Section 13 of the Commercial Courts, Commercial Division & Commercial Appellate Division of High



For Appellants	::	Ms. Gladys Daniel and Ms. J. Vennila
For Respondent	::	Mr.R. Sathishkumar and Mr. N.R. Srinath

(Judgment delivered by ***M. SUNDAR,J.***)

2. This consent order has to be read in conjunction with and in continuation of the earlier proceedings made in the previous listing on 11.06.2024, which reads as follows:

<https://www.mhc.tn.gov.in/judis>



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as follows:

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O.S.A. No. 340 of 2019

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

*Ms.V. Revathy, learned counsel for appellants and
Mr.R. Sathish Kumar, learned counsel for respondent are
before us.*

*2. Adverting to earlier proceedings dated
04.03.2020 made by a Hon'ble predecessor Bench, both
learned counsel submit that mediation was underway.
Though no formal settlement was drawn up, both learned
counsel submit that there is a possibility of giving a
closure to the matter.*

*List under the cause list caption 'FOR
REPORTING SETTLEMENT' on 11.06.2024.'*

*2. Ms.J. Vennila, learned counsel representing counsel on
record for appellant and Mr.R. Sathish Kumar, learned counsel on
record for respondent are before us.*

*3. Adverting to earlier proceedings, Ms.J. Vennila, larned
counsel requests for listing one week hence citing procedural
difficulties. Request acceded to.*

*4. List under the same cause list caption i.e., 'FOR
REPORTING SETTLEMENT' one week hence. List on 18.06.2024.'*



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3. Today, Ms. Gladys Daniel, learned counsel along with Ms. J. Vennila, learned counsel for the three appellants and Mr.R. Sathishkumar, learned counsel along with Mr.N.R. Srinath, learned counsel for sole respondent are before us.

4. Adverting to aforementioned earlier proceedings dated 11.06.2024, learned counsel on both sides submit that appellants have since given an undertaking by way of affidavit dated 14.06.2024 and the same is placed before us. A scanned reproduction of affidavit of undertaking dated 14.06.2024 with docket is as hereunder:



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(COMMERCIAL APPELLATE DIVISION)

OSA (CAD) No. 340 of 2019

1. C. Murali Kannan
No. 334, Mada Kail Street,
N. S. K. Nagar,
Chennai - 600 106
2. M. Srinivasan
No. 10/28, Old Veerapandiya Nagar,
3rd Street, Choolaimedu,
Chennai - 600 094
3. B. Ramachandran
No. 334, Mada Kail Street,
N. S. K. Nagar,
Chennai - 600 106

Appellants

Versus

1. N. Sathish
Proprietor
Om Tech Plastics
No. 16, 1st Main Road,
Ram Nagar,
Poravallur,
Chennai - 600 012

Respondent

AFFIDAVIT FILED ON BEHALF OF THE APPELLANTS

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I, B. Ramachandran, Son of Mr. Balakrishnan, Hindu, aged 62 years, residing at No. No. 334, Mada Kott Street, N. S. K. Nagar, Chennai 600 106, do hereby solemnly affirm and sincerely state as follows.

1. I am the 3rd Appellant herein and as such I am well acquainted with the facts and circumstances of the case. I am authorised to swear in this Affidavit on behalf of the 1st and 2nd Appellants herein and I submit as follows.

2. I state that we had preferred this present appeal to set aside the order dated 18.11.2019 passed in C. S. (Comm. Div.) No. 73 of 2017 on the file of the Commercial Division of this Hon'ble High Court of Madras. By the order dated 18.11.2019 the Appellants were restrained from committing 'passing off' their goods 'plastic water taps and shower taps' and other bathroom fittings as and for or being connected with the business of the Plaintiff's mark 'SIVA' by using the deceptively similar mark 'MSR SIVA'.

3. I state that aggrieved by the order dated 18.11.2019 this present appeal came to be filed. By order dated 20.12.2019 in the appeal this Hon'ble Court permitted the Appellants to sell the stocks available as on date of the decree alone. I state that no fresh products were manufactured and sold under the trade mark 'MSR SIVA'. I state that we removed the word 'SIVA' from the products sold by ~~them~~ us. *Handwritten signature and date 18-12-2019*

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Handwritten signature



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4. - Thus, I state and affirm that immediately after the order of this Hon'ble High Court of Madras order dated 20.12.2019 we stopped using the mark 'MSR SIVA' with respect to taps. I state and confirm that we cleared all pending stocks of the products under 'MSR SIVA' immediately thereafter.

5. The Appellants' products taps are manufactured and sold under the name MSR. only

Gladys
18.06.24

In view of the above circumstances, I pray that this Hon'ble Court may be pleased to record this affidavit and pass such further or other order, as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Solemnly affirmed at Chennai on this
the 14th day of June 2024 and signed
his name in my presence

Before Me,
18.06.2024
MSR Building, 407/1, Chennai
Advocate: Chennai

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IN THE HIGH COURT OF JUDICATURE AT
MADRAS

(APPELLATE JURISDICTION)

OSA (CAD) No. 340 of 2019

C. Marali Karunan & 2 Others

Appellant

Versus

Mr. N. Sathish
Proprietor, Om Tech Plastics

Respondent



AFFIDAVIT FILED ON BEHALF OF THE
APPELLANTS

For
R. Sathish
Come for Response
12/6/2019

M/S. C. DANIEL
GLADYS DANIEL
V. REVATHY
I. VENKATA
T. BHANUJATRA

COUNSEL FOR APPELLANTS
MOBILE NO: 9884441794
Email ID: legal@danielandgladys.in



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5. To be noted, before we proceed further, we deem it appropriate to write that the aforementioned earlier proceedings dated 11.06.2024 shall now be read as an integral part and parcel of this consent order.

6. Be that as it may, on instructions, Ms.Gladys Daniel, learned counsel for appellants, adverting to paragraph No.5 of the aforementioned affidavit submitted that appellants are using 'MSR' only for their products and this axiomatically means that appellants will not use 'MSR SIVA', which is subject matter of captioned litigation. This submission made on instructions is recorded.

7. Learned counsel on both sides submit that captioned O.S.A. and captioned C.M.P. thereat can be given a quietus by recording the aforementioned affidavit dated 14.06.2024.



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nv

8. Considering the facts and circumstances of the case and the nature of the matter, we find that this common request deserves to be acceded to.

9. Recording the aforementioned undertaking and the aforesaid submission made by the learned counsel for appellants, captioned O.S.A. and captioned C.M.P. thereat are disposed of as closed making it clear that the parties will now stand governed inter alia by the contents of aforementioned 14.06.2024 affidavit and statement of learned counsel for appellants made at the Bar which has been recorded. There shall be no order as to costs.

nv

(M.S.J.) (K.G.T.J.)
18.06.2024

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