



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2016

Coram:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

S.A(MD)No.593 of 2016 & C.M.P(MD)8752 of 2016

1.K.Muruganantham

2.Hemalatha

... Defendants 1 & 2/ Appellants 1 & 2/
Appellants 1 & 2

vs.

1.Senthil Nathan

2.Anbu Natarajan

... Plaintiffs/Respondents/Respondents

PRAYER: Second Appeal filed under Section 100 of the Code of Civil Procedure, against the Judgement and Decree of the First Additional District Court, Madurai, passed in A.S.No.7 of 2011 dated 29.06.2012 confirming the judgement and Decree passed by the First Additional Sub-Court, Madurai, in O.S.No.565 of 2006 dated 02.08.2010.

For Appellants : Mr.B.Karunanithi

JUDGMENT

The defendants in the suit in O.S.No.565 of 2006 on the file of the First Additional District Court, Madurai, are the appellants in the second appeal.

2. The respondents 1 and 2 herein have filed a suit in O.S.No.565 of 2006, for recovery of a sum of Rs.2,89,857.50 with interest at the rate of 9% per annum, from the date of plaint.

3. The case of plaintiffs in the plaint are as follows:-

3.1. The plaintiffs and the defendants entered into a partnership deed on 19.12.2000, to carry on business in partnership under the name and style of "Anchor Systems" as the franchisee of SSI Limited. After sometime, the plaintiffs wanted to resign from the partnership firm and there was an agreement on 27.08.2003, and the defendants had agreed to pay a sum of Rs.2,30,000/- to the plaintiffs upon this resignation. However, the defendants did not pay the amount as agreed by them. Though the defendants 1 and 2 issued a reply notice on 14.09.2004, in response to the notice issued by the plaintiffs admitting that



they are liable to pay a sum of Rs.95,000/- alone, by the end of September 2004, the defendants did not come forward to pay the amount. In the said circumstances, the plaintiffs came out with the present suit.

3.2. The defendants 1 and 2/appellants filed a detailed written statement disputing the claim of the plaintiffs. Though the defendants admitted the execution of the agreement, dated 27.08.2003, the appellants described the same as a void document. The defendants/appellants denied the liability under the agreement dated 27.08.2003. According to the defendants, the plaintiffs are deemed to be continuing as partners of the firm and the plaintiffs are also liable along with other partners to settle the amount due to M/s.SSI Ltd., as royalty. Since the defendants have filed another suit in O.S.No.592 of 2006, on the file of the Additional District Munsif, Madurai Town, for dissolution of firm and for injunction restraining the plaintiffs herein not to take any action on the alleged retirement and the agreement the defendants also submitted that the suit filed by them cannot be ignored and the present suit is not maintainable.

3.3. The trial Court after framing necessary issues and considering the evidence on both sides, decreed the suit as prayed for, by the Judgment and Decree dated 02.08.2010.

3.4. Aggrieved by the said judgment and decree of the trial Court, the appellants preferred A.S.No.7 of 2011 on the file of the First Additional District Judge, Madurai. The appellate Court also considered the points raised by the appellants and found that the suit filed by the respondents/plaintiffs has to be decreed.

3.5. Aggrieved by the same, the present Second Appeal is filed.

4. The findings of the Courts below are unassailable, having regard to the fact that the Courts below have applied their mind with regard to the pleadings and evidence and decided the case in a proper perspective. The Courts below have found that the document in Ex.A3 is a binding one and the defendants are liable to pay the same as promised by the defendants to the plaintiffs as per Ex.A3.

5. The case of the defendants that the plaintiffs should be deemed to be the partners continuing in the firm, was not accepted by the Courts below by giving reasons. Since the findings of the Courts below are based on the materials on record, the same cannot be interfered with on re-appreciation of evidence on record and no question of law much less a substantial question of law arises in



6. Hence, this Court find no reason to interfere with the findings of the Courts below and the second appeal is dismissed. No costs. Consequently, connected Miscellaneous petition is also dismissed.

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/True copy/

Sd/-
Assistant Registrar(co)

Sub Assistant Registrar

To

1.The First Additional District Judge,
Madurai.

2.The First Additional Subordinate Judge,
Madurai

+1cc to M/s.B.Karunanithi, Advocate SR.NO.64067

gsr

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S.A(MD)No.593 of 2016
26.10.2016