

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 19.02.2017

Pronounced on : 22.02.2017

CORAM

THE HON`BLE MR.JUSTICE N.SATHISH KUMAR

A. No.5113 of 2015 in C.S.No.189 of 2013

Kishore

.. Applicant

vs.

1. ICICI Bank Limited,
III Floor, No.1, Cenotaph Road,
Teynampet, Chennai – 600 108.
Rep. by its Power Agent
Mr.Shankar Bala Subramaniam

2. Everonn Education Limited
No.82, IV Avenue, Ashok Nagar,
Chennai – 600 83.

.. Respondents

Prayer : Appeal filed under Order XIV Rule 8 of Original Side Rules 1956 read with Section 151 of CPC seeking to set aside the order dated 03.07.2015 made in A.No.7294 of 2014 in C.S.No.189 of 2013 by the learned Master and allow this appeal.

For Applicant : Mr.G.Krishnakumar

For respondents : Mr.R.Pradeep
for Iyer & Thomas – R1

ORDER

This appeal is filed aggrieved over the dismissal of the application filed for rejection of the plaint by the Master.

Heard both sides. Perused the application, the materials available on record and the application filed for rejection of the plaintiff.

This application itself has been filed on the premises that cause of action pleaded in the suit is based on the short fall of agreement. Since the said agreement is not enforceable, the suit as against the applicant is not maintainable. It is also pleaded in the application to reject the plaint since the applicant relinquished the management rights over the group of companies of rights and liabilities amendatory and the rights vested with the work group of companies and there was no cause of action for the suit. Hence, sought for rejection of the plaint.

The learned master considering the entire pleadings of the plaint and taking note of the consideration of the various documents executed by the applicant and also default committed in payment of amount and interest and also considering the plaint that even after the so called sale of shares of the first defendant and mother's share, there was still interest payable to the plaintiff bank and analysing the entire pleadings of the plaint, dismissed the application.

The main contention of the applicant is that since he has relinquished his rights in favour of the new promoters, there is no cause of action.

On perusal of the entire pleadings of the plaint, this Court does not find any merit in the application filed to reject the plaint. The various agreements pleaded in the plaint and the cause of action specifically alleged in the plaint pleadings, clearly show that this application filed to reject the plaint is nothing but merely vague attempt to protract the proceedings, one way or other. The entire pleadings of the plaint, when perused, this Court is of the firm view that the application to reject the plaint cannot be entertained. Therefore, the Order passed by the Master does not suffer from any infirmity and he has passed the above Order on taking into consideration of the sequence of events and cause of action arose which lead to the filing of the suit. Hence, the Order passed by the Master is confirmed and the appeal is dismissed. No cost.

22.02.2017.

Index : Yes/No

Internet : Yes/No

vrc

N.SATHISH KUMAR.J.,

vrc

Order in

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<http://www.judis.nic.in>