

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.11.2018

CORAM :
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

O.S.A.No.448 of 2018
and
C.M.P.No.20398 of 2018

M/s.Karismaa Foundations Pvt. Ltd.,
Represented by its Managing Director Mr.Rakesh P.Sheth,
No.340, 1st South Main Road,
Kapaleeswar Nagar,
Neelankarai,
Chennai 600 115.

...Appellants

-vs-

1.M/s.Bhagwandas Metals Limited,
Represented by its director
Mr.Nandkishore Sonthalia,
New No.54, Old No.61, Sembudoss Street,
Chennai 600 001.

2.M/s.MGM Steels,
A partnership firm registered under the
Indian Partnership Act, 1932,
Represented by its Managing Partner Mr.Govind Prasad,
New No.54, Old No.61, Sembudoss Street,
Chennai 600 001.

3.Nandkishore Sonthalia

4.Sandhya Jain

5.Gita Agarwal

6.Meera Agarwal

7.Anjana Sethi

8.Chandravelli Devi Jain

9.Megha Sethi

10.Vikas Kumar Sethi

11.Vimal Kumar Sethi

12.Suresh Kumar Jain

13.Priya Sethi

14.Rukmani Bai

15.Kamala Bai ...Respondents

Appeal filed against the order passed in A.No.35 of 2017 in C.S.No.758 of 2016 on 26.07.2018, on the file of this Court.

For Appellant : Mr.Nithyaesh Nataraj

For Respondents : Mr.R.Parthasarathy

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J.)

The appeal has been preferred against the order of the learned Single Judge allowing the application filed by the respondents, which seeks a direction to the appellant to pay the court fee as per Section 40 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955, in respect of the valuation made by the appellant under Section 25(d) of the Tamil Nadu Court fees and Suits Valuation Act.

2. Mr.Nithyesh Nataraj, learned counsel for the appellant would submit that as per the direction given by the learned single Judge, the court fee had been paid. However, he is aggrieved with certain observations, which are on merits as it would be prejudicial to the appellant's interest in the applications to be decided later by the learned single Judge and also the suit.

3. However, Mr.R.Parthasarathy, learned counsel appearing for the respondents would submit that the observations are invited by the appellant as the counter has been filed touching upon the merits of the case.

4. Heard the parties and perused the records.

5. The appellant filed a suit for declaration of the memorandum of agreement dated 10.01.2015 as null and void as against the law. The said Suit was valued and court fee was paid under Section 27(c) of the Act. In the said Suit, Application No.35 of 2017 has been taken out by the respondents, seeking a direction to the appellant to pay the Court fee as per Section 40 of the Act. While deciding the application, the

learned Judge referred the agreement, which is sought to be declared as null and void by the appellant and gave certain findings. As per the agreement, the appellant has to pay the amount and subsequently, the respondents have to transfer the shares to the appellant. The observations made by the learned single Judge only describe the agreement. In any event, the observations or findings given by the learned single Judge are only for the purpose of disposal of the application and that will not influence the learned single Judge later in deciding the applications in the suit and also the suit.

6. Taking into consideration the fact that the appellant has already complied with the order passed by the learned single Judge, the appeal has become infructuous. Mr. Nithyesh Nataraj, learned counsel for petitioner would make a request for a direction to dispose of the applications filed by both the parties, which are pending before the learned single Judge. Considering the above request, this Court only requests the learned Single Judge to dispose of the applications at the earliest.

Accordingly, the appeal is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sai

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras - 104.

+2ccs to M/s. Nithish and Vaibhav, Advocate, S.R.No.79615 & 79370

O.S.A.No.448 of 2018

KJI (CO)

rrs 19/12/2018