

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

O.S.A.No.280 of 2018

1.D.Ravi
2.R.Baskaran

... Appellants

Vs

1.S.Mailappan
2.C.Nagarathinam

... Respondents

Appeal preferred under Order XXXVI Rule 1 of O.S. Rules r/w Clause 15 of Letters Patent against the judgment and decree dated 29.02.2016 made in A.No.4578 of 2014 in A.No.1877 of 2013 in C.S.No.86 of 2013.

For Appellants .. Mr.N.Moorthi

For Respondents.. Mr.Sairaman
for Mr.K.Shajahan for R1
Notice sent to R2 - Insufficient
address

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellants, who are the plaintiffs in the suit, challenging the leave granted by the learned single Judge.

2.Learned counsel appearing for the appellants submitted that the suit has been filed for recovery of money based upon the documents such as promissory note and cheques. Thus, the order of the learned single Judge requires interference.

3.Learned counsel appearing for the first respondent submits that the order has been passed by the learned single Judge in A.No.4578 of 2014 in A.No.1877 of 2013 in C.S.No.86 of 2013 as early as 29.02.2016. Thereafter, the written statement

has been filed by the first defendant on 15.08.2017, issues have been framed and proof affidavit has also been filed by P.W.1 on 15.02.2018. Now, the case is at the stage of cross-examination of P.W.1 and examination on the side of the defendants. The delay has occasioned only due to the appellants. Therefore, no interference is required.

4.We are not inclined to go into the merits of the case in view of the subsequent developments that have taken place. Had the appellants cooperated, the suit itself would have been over by this time. Learned single Judge passed an order on 29.02.2016. The written statement has been filed by the first defendant on 15.03.2017 followed by framing of issues. Thereafter, proof affidavit of P.W.1 has been filed and his cross-examination is going on. Thus, we do not find any reason to interfere with the order passed by the learned single Judge.

5.As rightly submitted by the learned counsel appearing for the first respondent, had the appellants cooperated with the conduct of the case, it would have been over by this time.

6.In such view of the matter, we are not inclined to allow this appeal. Accordingly, the Original Side Appeal stands dismissed. No costs.

7.We hope and trust that the parties would cooperate for the early disposal of the suit. We expect the parties to complete the examination of the witnesses within a period of six weeks from the date of receipt of a copy of this judgment.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mmi
To

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

+1 cc to M/s.K.Shajahan Advocate sr16462
+1 cc to M/s.N.Moorthy Advocate sr15634

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