A.No.1529 of 2022
in
C.S.(Comm. Div) No.82 of 2021

SENTHILKUMAR RAMAMOORTHY, J

The first defendant in the suit has presented this application to reject the plaint.

2. The basis of the application is that Section 2-CB (1) of the Insurance Act 1938 stipulates that no person may insure a property in India through an insurer whose principal place of business is outside India without the prior permission of the Insurance Regulatory and Development Authority of India. According to the applicant, the plaint is liable to be rejected because the plaint does not contain a statement that such prior permission was obtained by the first plaintiff. Learned counsel for the applicant asserts that the expression “statement in the plaint” in Order 7 Rule 11(d) of CPC should be construed as including statements that should have been but were not made.

3. The respondents/plaintiffs have filed a common counter affidavit refuting the contentions and submitting that this application is liable to be rejected.

SENTHILKUMAR RAMAMOORTHY, J

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4. The law with regard to rejection of plaint, including under Order 7 Rule 11(d) CPC, is well settled. Such applications are tested solely on the basis of express statements in the plaint and not through a process of inferential reasoning as contended by the applicant. Learned counsel for the applicant relies on Order 6 Rule 13 CPC to contend that the exemption provided therein is only with regard to matters on which the law provides for presumption in favour of the plaintiff. By asserting that the requirement of prior permission under Section 2-CB(1) of the Insurance Act, 1938 does not fall within the presumptions covered by Order 6 Rule 13 of CPC, the applicant reiterates that the application is liable to be allowed.

5. As stated above, an application to reject the plaint is required to be tested solely on the basis of explicit statements in the plaint and not by relying on extraneous material. Consequently, A.No.1529 of 2022 is dismissed without any order as to costs.

28.04.2022

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