



O.S.A.No.131 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.01.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

O.S.A.No.131 of 2022
and C.M.P.No.8245 of 2022

1.Karishma Foundations Private
Limited represented by
its Director C. Rajesh
No.340, 1st South Main Road,
Kapaleshwarar Nagar, Neelankarai
Chennai - 600 115

2.Rakesh P. Sheth
S/o. Premkumar Sheth, No.340
1st South Main Road, Kapaleshwarar Nagar
Neelankarai, Chennai - 600 115

3.Roshini R. Sheth
W/o. Rakesh P Sheth, No.340
1st South Main Road, Kapaleshwarar Nagar
Neelankarai, Chennai - 600 115

.. Appellants

Vs.

Indus Homes, represented by its partner
Sheryas Lunawath,
No.5C, Ega Trade Centre,
809, P.H. Road, Chennai – 600 010.

.. Respondent



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Original Side Appeal filed under Order XXXVI Rule 11 of the

Original Side Rules r/w Clause 15 of the Letters Patent and Section 483 of the Companies Act, 2013, to set aside the order dated 25.03.2022 passed by a learned Single Judge of this Court in A.No.1218 of 2022 in C.S.No.54 of 2018.

For Appellants : Mr.Nithyaesh Natraj

For Respondent : Mr.B.Arvind Srevatsa

JUDGMENT

[Judgment of the Court was made by R.MAHADEVAN, J.]

Heard both sides and perused the materials available on record.

2.This appeal has been filed by the appellants/defendants to set aside the order dated 25.03.2022 passed by a learned Judge in A.No.1218 of 2022 in C.S.No.54 of 2018.

3.By the order impugned herein, the learned Judge has allowed the aforesaid application filed to condone the delay of 890 days in re-presenting the written statement subject to a condition that the appellants/defendants



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should deposit a sum of Rs.1,00,000/- before the Registry to the credit of

C.S.No.54 of 2018 on or before 19.04.2022.

4. According to the learned counsel for the appellants / defendants, the suit was instituted by the respondent / plaintiff for recovery of money. Pursuant to the serving of summons, the appellants filed their written statement vide SR.No.16468 of 2019, which was returned for certain queries. While so, in March 2021, Covid-19 pandemic spread all over the world, as a result of which, the written statement was not represented within the time stipulated. The learned counsel further submitted that there is only a delay of 2 days in representing the written statement and the same has arisen due to covid 19 pandemic related issues and hence, the delay is neither wilful nor wanton. However, the learned Judge imposed a huge sum of Rs.1,00,000/- towards costs, for condoning the delay in representing the written statement. Therefore, the learned counsel sought indulgence of this court to interfere with the order of the learned Judge, which is impugned herein.



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5.On the other hand, the learned counsel for the respondent/plaintiff submitted that the appellants / defendants have represented the written statement with a delay of 890 days and hence, the learned Judge while allowing the same, has imposed a costs of Rs.1,00,000/-. However, the learned counsel submitted that he has no objection for any order that may be passed by this court.

6.Having regard to the reasons adduced by the appellants/ defendants for the delay in representing the written statement that there was covid-19 pandemic situation prevailing, which appears to be *bona fide*, and also considering the no objection expressed on the side of the respondent, this court is inclined to modify the order dated 25.03.2022 passed by the learned Judge in A.No.1218 of 2022 in CS No.54 of 2018 by reducing the quantum of costs imposed on the appellants / defendants from Rs.1,00,000/- to Rs.25,000/-. Accordingly, the appellants / defendants are directed to deposit a sum of Rs.25,000/- to the credit of CS.No.54 of 2018 before the Registry on or before 22.02.2023. On such deposit being made, the application filed to condone the delay in representing the written statement, will stand allowed.



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WEB COPY 7. With the aforesaid modification, this original side appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
25.01.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation; Yes / No

nsd



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AND
MOHAMMED SHAFFIQ, J.

nsd/rk

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