



WEB COPY



C.S. No.471 of 2019

A. No.2287 of 2023
in
C.S. No.471 of 2019

ABDUL QUDDHOSE, J.

This application has been filed seeking for return of the plaint.

2. The following facts are undisputed :

a) The applicant has received the suit summons in the year 2019 itself. They have chosen not to file the written statement within the statutory period despite receipt of the suit summons;

b) The right to file the written statement for the applicant has also been forfeited and

c) The suit is ripe for trial as issues have already been framed by this Court.

3. Even though the suit summons was served in the year 2019 itself on the 2nd applicant, who is the second defendant in the suit, he has chosen not to either file their written statement and has also not filed an application seeking for a similar relief at the first instance but after a lapse of almost four years they have filed this application seeking for return of the plaint.

4. Admittedly, the present suit is a commercial suit. The Commercial Courts Act, 2015 has been legislated for early disposal of the Commercial disputes. Strict time lines have been fixed statutorily under the Commercial



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Courts Act, 2015 for early disposal of the commercial dispute. If the application of this nature is allowed to be entertained at this stage, after a lapse of almost four years from the date of receipt of the suit summons by the applicant, the object of the Commercial Courts Act, 2015, will get defeated. Even though the learned counsel for the applicant / second defendant relies upon a judgment of a learned Single Judge of this Court reported in **2022 6 CTC 206**, the said judgment has no applicability for the facts of the instant case as the said suit was not a commercial suit, but was an ordinary suit. When the suit is ripe for trial, the application of this nature that too when the 2nd applicant / 2nd defendant has received the suit summons in the year 2019 itself cannot be entertained at this stage by this Court.

5. For the foregoing reasons filing of the application at this stage has no merit. Accordingly A. No.2287 of 2023 is dismissed. If aggrieved by the claim made by the plaintiff, the second defendant is always at liberty to cross examine the plaintiff's witness which includes cross examination on the jurisdiction aspect as well.

6. Post the matter for Case Management Hearing on 03.01.2024.

12.12.2023

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