



A.No.3722 of 2023 in CS.No.402 of 2014

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in
C.S.No.402 of 2014

RESERVED ON : 03.08.2023

PRONOUNCED ON : 12.12.2023

A.A.NAKKIRAN, J.

ORDER

This application has been filed by the Plaintiff to extend the time granted in A.No.6870 of 2017 in CS.No.402 of 2014, by order dated, 21.12.2017 for presenting the Plaint before the appropriate court.

2.The case of the Applicant is that the above suit was filed for specific performance of the suit agreements. Leave to sue was granted in A.No.2767 of 2014, by order dated, 23.04.2014. Against the said order, the 3rd defendant filed A.No.6870 of 2017 to revoke the leave, which was allowed by order dated 21.12.2017 and the Registry was directed to return the Plaint to the Plaintiff for presentation before the appropriate Court. Against the said order, the Plaintiff preferred OSA.No.67 of 2018, which was dismissed by order dated 07.03.2018. As against the said order in OSA, the Plaintiff preferred SLP(C)No.22676 of 2018. In view of long



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pendency of the said appeal, the Plaintiff filed I.A.No.124229/2022 to withdraw the SLP, which was dismissed as withdrawn, by order dated, 01.03.2023. In view of the same, the Plaintiff is willing to take return of the Plaint for presentation before the appropriate court and hence, this application has been filed, seeking the relief, as stated above.

3. In the counter affidavit filed by the 3rd Defendant, it is stated as follows:-

(i) By order dated 21.07.2017 in A.No.6870 of 2017, this Court allowed the said application, by revoking the leave to sue granted in A.No.2767 of 2014 on 23.11.2014 and directed the Registry to return the Plaint to the Plaintiff for presentation before the appropriate Court as the property covered under the said suit is outside the original jurisdiction of this Court. Aggrieved by the said order, the Applicant herein preferred OSA.No.67 of 2018, which was dismissed by order dated 07.03.2018 and SLP(C)No.22676 of 2018 was filed as against the same by the Applicant. The Applicant filed A.No.124229 of 2022 for withdrawal of the said SLP, which was filed on 23.08.2022, wherein the Applicant did not seek for any leave to withdraw the said SLP and to work out his remedy before the



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appropriate Civil Court. The said Application No.124229 of 2022 was taken on file on 01.03.2023. The Honourable Supreme Court was pleased to pass an order, dismissing the said SLP, as withdrawn. However, without even disclosing the proper facts, the Applicant herein in paragraph 4 of the affidavit has stated that he has sought liberty of the Court, while withdrawing the said SLP, which is factually incorrect. There was no leave prayed or obtained from the Court, which is evidently clear from the order dated 01.03.2023 and as well as on perusal of the application filed in that regard.

(ii) It was only under the said circumstances, the Applicant has come out with the present application. In the said order passed in OA.No.6870 of 2017, it is found that no such time limit is prescribed to present the Plaint before the Court of appropriate jurisdiction. However, contrary to the same, the Applicant is projecting a new theory in the present application as though there was a timeline fixed by the Court while passing the said order, which needs to be extended, which is totally incorrect. The very object of filing the present application is to escape from the limitation and also escape from paying the additional court fees, which in any event cannot be permitted to be done. Further, while



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withdrawing the SLP, no leave was obtained by the Applicant to prosecute the Plaint before the appropriate Court. When there was no time line fixed by this Court while passing the order in OA.No.6870 of 2017, this application seeking for extension of time is to be dismissed with costs.

4. The learned counsel for the applicant would submit that in view of the long pendency of SLP(C) No.22676 of 2018, the plaintiff filed I.A. No.124229 of 2022 to withdraw the said SLP. The same was ordered as prayed for on 01.03.2023. Hence, the plaintiff has filed the present application to take return of the plaint for presentation before the Appropriate Court.

5.The learned counsel for the respondent would submit that the present application has been filed to escape from the limitation and also paying the additional Court fees. Hence, it cannot be permitted. Further, while withdrawing the SLP, no leave was obtained by the applicant to prosecute the plaint before the appropriate Court. While passing the order dated 21.12.2017, no time was fixed. Hence, this application seeking for extension of time is to be dismissed.



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6. Heard both sides and perused the material available on record.

7. Having considered the facts and circumstances of the case and submissions made by both side counsel, this Court is inclined to allow the present application subject to law of limitation and additional Court fee, if any.

8. Accordingly, this application is allowed. No costs.

12.12.2023

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

Srcm/Lbm



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Srem/Lbm

Pre-Delivery Order in
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