



WEB COPY



O.S.A.(CAD) No.112 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

O.S.A. (CAD) No.112 of 2023

1.P.Manicka Chettiar

2.P.M.Pulugaiya

.. Appellants

Vs

1.M/s.K.A.S. Zainulabdin & Co.,
rep. by its Partner K.M.Saleem,
No.196, Angappan Street,
Chennai-600 001.

2.M.A.Nagoor Pitchai
Trading as Manp Abubacker Ibrahim & Co.,
M.A. Store, T.M. Masjid Road,
Moreh (P.O)-795 131
Manipur.

3.MAA Annapoorna Transport Agency,
New No.46, Old No.311,
Thambu Chetty Street,
Chennai-600 001.

.. Respondents

Prayer: Appeal under Section 13 of the Commercial Courts Act against the order dated 7.7.2023 passed by the learned Single Judge in Application No.3182 of 2023 in C.S.No.453 of 2012.



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For the Appellant : Mr.A.Thiagarajan
Senior Counsel
for M/s.J.Radhakrishnan

For the Respondents : Mr.S.Karthik
for Mr.Arun C.Mohan
for respondent No.1

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.A.Thiagarajan, learned Senior Counsel for M/s.J.Radhakrishnan, learned counsel for the appellant and, M.S.Karthik, learned counsel for Mr.Arun C.Mohan, learned counsel for the first respondent.

2. The appellant is challenging the order passed in an application filed for clarification purportedly under Section 151 of the Code of Civil Procedure, 1908 [for brevity "*the CPC*"]. The said application is rejected. The suit is tried under the Commercial Courts Act, 2015. The same is not disputed.

3. We asked learned Senior Counsel for the appellant as to



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how the appeal is tenable in view of the bar engrafted under Section 13 of the Commercial Courts Act, 2015. The learned Senior Counsel relied upon Order XLIII, Rule 1A of the CPC.

4. According to us, Order XLIII, Rule 1A of the CPC would not apply. Order XLIII, Rule 1A CPC stipulates that in an appeal filed against a decree, the order passed during the pendency of the suit can also be assailed. However, independent appeal is not permitted to be filed.

5. In view of the bar under Section 13 of the Commercial Courts Act, 2015, the present appeal is not maintainable. As such, the appeal is disposed of. There will be no order as to costs. Consequently, C.M.P.No.19534 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

29.09.2023

Index : Yes/No
Neutral Citation : Yes/No
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To:

The Sub Assistant Registrar
Commercial Cases
High Court, Madras.



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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU,J.

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