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C.S.No.83 of 2020**01.02.2024****MASTER****JUDGMENT**

1. This summary suit has been filed under Order VII Rule 1 of Original Side Rules read with Order XXXVII Rule 1 of CPC to pass a judgment and decree directing the defendants to pay the plaintiff a sum of Rs.1,09,35,550/- (Rupees one crore nine lakh thirty five thousand five hundred and fifty only) with future interest @ 12 % per annum for the principal sum of Rs.85,00,000/- from the date of presentation of the plaint till the date of realization.

2. After filing of the suit, summons were served on the defendants. The defendants filed two separate applications for obtaining leave to defend the suit in A.Nos.3447 and 3448 of 2021 and both the applications were dismissed on merits on 27.09.2022.

3. Now the point to be decided is whether the plaintiff is entitled to a decree as prayed for?

4. At this juncture, it is useful to point out the relevant provisions in **Madras High Court Original Side Rules** to try summary suits.

**Order VII Rule 1 runs as under**

R.1. *A suit to recover a debt or a liquidated demand in money, evidenced by a document, or any money payable by the defendant with or without interest, arising on a negotiable instrument or on a bond or a contract for payment of a liquidated amount of money evidenced by a document, or on a guarantee where the claim arises against the principal in the manner aforesaid, may, in case the plaintiff desires to proceed hereunder, be instituted by presenting a plaint in the form prescribed.*

For the purpose of this order “Liquidated demand” means a demand for the amount stated or so expressed that the ascertainment of the amount is a mere matter of calculation.

Order VII Rule 5 runs as under

R.5. *In any case in which the plaint and summons are in the form prescribed in this order, the defendant shall not defend the suit unless he obtains leave to defend from the Master as hereinafter provided. In default of the defendant obtaining such leave, or if he fails to defend in pursuance of such leave, the allegations in the plaint shall be deemed to be admitted and the plaintiff shall be entitled to a decree for the sum claimed in the plaint, and in cases where interest is payable either by contract or statute, interest till the passing of the decree and further interest at six percent per annum from the date of the decree to the date of payment, and such sum for costs as may be prescribed.*

Order VII Rule 6 runs as under

R.6. (1) *An application for leave to defend the suit shall be made to the Master supported by such evidence by way of affidavit as the defendant desires to place before the Court.*

(2) *Leave to defend may be given unconditionally or subject to such terms and directions as the Master thinks fit.*

(3) *The Master shall, (a) if the defendant does not appear, on proof by affidavit of service of the summons on the defendant, or (b) if leave to defend is not granted, pass a decree for the amount claimed and costs.*



5. As per original side rules of Madras High Court, in any case which is tried summarily in which the plaint and summons are in the form prescribed in this order, the defendant shall not defend the suit unless he obtains leave to defend from the Master. In default of the defendant, the allegations in the plaint shall be deemed to be admitted and the plaintiff shall be entitled to a decree for the sum claimed in the plaint.

6. Further, if the defendant does not appear, or if leave is not granted, the Master shall pass a decree for the amount claimed in the plaint with the cost.

7. In the case in our hand, after receiving summons, the defendants filed applications for obtaining leave to defend the suit as per Madras High Court Original Side Rules. Both the applications are dismissed on merits in A.No.3447 and 3448 of 2021 on 27.09.2022 Since the leave to defend is not granted, the plaintiff is entitled to the Decree and Judgment as prayed for.

8. In the result, this suit is decreed directing the defendant to pay the plaintiff a sum of Rs.1,09,35,500/- (Rupees one crore nine lakhs thirty five thousand five hundred only) with future interest @ 6 % per annum for the principal amount of Rs.85,00,000/- from the date of presentation of the plaint till the date of realization and the costs of this suit as fixed by the taxing officer.

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JUDGMENT PRONOUNCED

MASTER
01.02.2024

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