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C.M.P.No.27214 of 2023 in Appeal (CAD) No.29 of 2023

C.M.P.No.27214 of 2023
in
Appeal (CAD) No.29 of 2023

M.SUNDAR, J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,

(Order of this Court was made by M.SUNDAR.J.,)

This order will now dispose of the captioned 'Civil Miscellaneous Petition' ['CMP' for the sake of brevity].

2. Captioned main appeal is a regular first appeal under Section 96 of 'the Code of Civil Procedure, 1908' ['CPC' for the sake of brevity] and it has been filed assailing judgment and decree dated 30.08.2022 made in O.S.No.7097 of 2019 [previously C.S.No.536 of 2012] {CNR No.TNCH01-031771-2019} made by XXIII Additional Judge's Court, Civil Civil Court, Allikulam, Chennai- 600 003. This '30.08.2022 judgment and decree' shall be referred to as 'impugned decree' for the sake of brevity and convenience and this 'XXIII Additional Judge's Court, Civil Civil Court. Allikulam, Chennai' shall be referred to as 'said trial Court' .

3.Suffice to say that said trial Court decreed the suit as against Defendants 1 and 2 vide impugned decree [to be noted, suit is for recovery of a sum of Rs.39,09,422/- together with interest. D1 and D2 are in appeal



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as appellants, lone plaintiff and D3 have been arrayed as R1 and R2 respectively in the grounds of appeal.

4. When the matter was listed before Hon'ble predecessor Bench, the following order was made on 06.03.2021:

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R.SUBRAMANIAN, J.
and
R.SAKTHIVELU, J.

It is seen that the decree has been passed against the appellants on the premise that the appellants introduced the 3rd defendant in the suit to the plaintiff. We are *prima facie* satisfied that the decree is flawed, in the absence of any contract between the appellant and the plaintiff/ 1st respondent. Hence, there will be an order of interim stay of execution of the decree until further orders.

2. Counter by 30.03.2024.

(R.S.M., J.) (R.S.V., J.)
06.03.2024

dsa

5. Today, Ms.Hema Srinivasan, learned counsel for appellants and Mr.K.V.Babu, learned counsel for R1 are before us. Learned counsel for R1, who is the sole plaintiff in the trial Court and who is also a decree holder, very fairly submits that the aforementioned 06.03.2021 order can be made absolute leaving open all the rights and contentions of both sides to be



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raised in the main appeal.

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6. In the light of the narrative thus far, captioned CMP is disposed of making aforementioned 06.03.2024 order absolute.

[M.S., J] [K.G.T., J]
04.04.2024
(1/2)

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