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S.A. No.534 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2024

CORAM:
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

S.A. No.534 of 2024
and
C.M.P.No. 17115 of 2024

D.Vidya Dhandapani

... Appellant

Vs.

P.Madhu Sudhan Rao

.. Respondent

PRAYER : Second Appeal filed under Section 100 of Code of Civil Procedure, to set aside the judgment and decree dated 26.07.2022 passed in A.S.No. 110 of 2021 on the file of the III Addl. City Civil Court, Chennai confirming the judgment and decree dated 08.08.2019 made in O.S.No.1763 of 2015 on the file of VIII Asst. City Civil Court, Chennai.

For Appellant : Mr.N.Vijayakumar

For Respondent : Mr.K.R.Ramesh Kumar



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JUDGMENT

The appellant herein, who is the defendant in the suit in O.S.No.1763 of 2015 and challenging concurrent the findings of the courts below in the Appeal Suit in A.S.No. 110 of 2021 on the file of III Addl. City Civil Court at Chennai confirming the judgment and decree passed in O.S.No.1763 of 2015 on the file of the VIII Asst. City Civil Court at Chennai, she had preferred this Second Appeal.

2. For the sake of convenience, the parties are denoted as per the ranking in the suit.

3. The learned counsel of defendant contended that the partnership firm was formed by her husband viz., B.Dhandapani (deceased) along with the plaintiff for the purpose of running a business of club and resorts, for which the plaintiff offered his property including house site in Pammathukulam village near Ponneri. After the demise of her husband, the plaintiff filed a suit seeking for the relief of dissolution of partnership firm and for rendition of accounts. He would further submit that the partnership firm was run by her husband and the plaintiff, thereby, the profit and loss



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were being shared equally by the partners. While so, the plaintiff being a partner, who is actively involved in the business, had instituted the suit claiming dissolution of partnership firm as well as rendition of account. But, the defendant was not in active participation in the said business and her husband only involved in the business along with respondent. So, the plaintiff only himself is aware of day to day affairs of the firm and he cannot seek rendition of accounts from her. He would further submit that one Indumathi, now runs the business, but she was not impleaded in the suit. Accordingly, she prayed to allow this Second Appeal.

4. The learned counsel for respondent raised strong objections stating that what are the submissions made by the defendant before this court was not raised in her written statement. He would also submit that both the courts below based on the evidence available on record decreed the suit. Furthermore, as the defendant and her husband was in active participation of business, both the courts below have rightly observed that the plaintiff was not in active participation of business and D.W.1, in her evidence also admitted that she did not produce statement of profit and loss of firm. The



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courts below further observed that the defendant had claimed ignorance of supplemental deed and she along with her husband had not been just and open in respect of accounts of business affairs of firm with the plaintiff. Hence, it is clear that the trust and confidence that are expected for running a partnership firm was lost and shaken. Moreover, prior to the filing of suit, the plaintiff issued a notice calling for dissolution of partnership firm. On considering all those facts, the courts below have rightly appreciated the facts and decreed the suit observing that the plaintiff was entitled for 50% of share in the profit along with interest at the rate of 24% per annum. Hence, he prayed to dismiss the Second Appeal.

5. On perusal of materials available on record, it reveals that the defendant was the active partner of the firm along with her husband Dhandapani and since the suit is filed claiming the relief for dissolution of partnership firm, both the courts below concurrently held that she is active partner in the partnership firm and the plaintiff is entitled for profit and share of partnership firm, but no share was given to the plaintiff, who is one of partner, he had also pledged his property to the firm, which was rightly



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appreciated by the both the courts below. Therefore, she is liable to submit the accounts as on date.

6. Considering the above facts and circumstances and on considering rival submissions made by both sides, I do not find any merit in this Second Appeal and also finds that there is no substantial question of law arise for consideration. The defendant is directed to submit accounts of the firm to the plaintiff within a period of two months from the date of receipt of copy of this order. Accordingly, this Second Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

20.08.2024

Index : Yes / No
Internet : Yes / No
Speaking/Non-speaking order
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To

The III Addl. Judge,
City Civil Court, Chennai.

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T.V.THAMILSELVI, J.

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