



A. No.4927 of 2023 in C.S. (Comm.Div.) No.218 of 2023

ABDUL QUDDHOSE,J.

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This application has been filed seeking for a direction to the respondents 5 to 7 to deposit a sum of Rs.1,12,10,122/- (Rupees One Crore Twelve Lakhs Ten Thousand and One Hundred and Twenty Two only) to the credit of the suit.

2.The applicants/plaintiffs had filed a suit against the defendants jointly and severally for recovery of a sum of Rs.1,12,10,172/- (Rupees One Crore Twelve Lakhs Ten Thousand and One Hundred and Twenty Two only) together with interest at the rate of 24% per annum on the principal amount of Rs.54,48,414/- (Rupees Fifty Four Lakhs Forty Eight Thousand Four Hundred and Fourteen only) from the date of plaint till the date of realisation.

3.The applicants/plaintiffs have filed 26 documents along with the plaint. As seen from the same, investments were made by the applicants/plaintiffs with the first defendant partnership firm in which the defendants 2 to 4 are partners. According to the applicants/plaintiffs, as per investment agreements, the defendants have not returned the assured returns to the applicants/plaintiffs. According to the applicants/plaintiffs, the defendants have cheated them by siphoning the funds, invested by the applicants/plaintiffs.



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4.As seen from the averments as well as the documents, based on a criminal complaint, an FIR has been registered in Crime No.156 of 2019 on 08.05.2019 against the defendants for the criminal offence committed by them. Similarly placed persons as that of the applicants/plaintiffs had approached this Court by filing a Civil Suit in C.S. No.155 of 2021. They had also obtained a judgment and decree against the defendants jointly and severally on 15.12.2021 under which the defendants jointly and severally were directed to pay the decretal amount to the plaintiffs in that suit.

5.The applicants/plaintiffs have filed this application to secure their interests as they claim that the only security now available to them is the amount lying with the garnishee, i.e. the sixth respondent, which are the monies belonging to the defendants now lying in the Bank account, maintained by them with the sixth respondent Bank.

6.The sixth respondent has filed a counter affidavit in this application stating that a sum of Rs.89,27,394.79 (Rupees Eighty Nine Lakhs Twenty Seven Thousand Three Hundred and Ninety Four and Seventy Nine Paise only) is lying in the account maintained by the first defendant in their Bank.



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7.Learned counsel for the sixth respondent/garnishee would submit that the sixth respondent will abide by any order passed by this Court with regard to the money lying with the sixth respondent in the account maintained by the first respondent. The defendants have already been set exparte by this Court.

8.After giving due consideration to the averments contained in the plaint as well as the affidavit filed in support of this application and as well as the counter affidavit filed by the sixth respondent, who is the only contesting respondent in this application, this Court is inclined to direct the sixth respondent to deposit a sum of Rs.89,27,394.79 (Rupees Eighty Nine Lakhs Twenty Seven Thousand Three Hundred and Ninety Four and Seventy Nine Paise only) to the credit of the suit since a prima facie case has been made out by the plaintiffs. The plaintiffs have also established balance of convenience and irreparable hardship.

9.Accordingly, the sixth respondent is directed to deposit a sum of Rs.89,27,394.79 (Rupees Eighty Nine Lakhs Twenty Seven Thousand Three Hundred and Ninety Four and Seventy Nine Paise only) in the form of a Fixed Deposit, standing in the name of the Registrar General of this Court, to the credit of the suit within a period of two weeks from the date of receipt of a copy of this order.



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10.With the above direction, this application is disposed of.

23.02.2024

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Note: Post the suit on 11.03.2024.

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