



O.S.A.No.185 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HON'BLE Mr. JUSTICE S.S.SUNDAR
AND
THE HON'BLE Dr. JUSTICE A.D.MARIA CLETE

O.S.A.No.185 of 2024

Suraj Goyal

.. Appellant

Vs.

1.C.M.Goyal

2.Suchitra Goyal @ Suchitra Tamia

3.Bank of India

Rep. by its Bank Manager

Mount Road Branch

No.827, Anna Salai

Post Box No.2703, Chennai 600 002

4.Kotak Mahindra Bank Ltd.

Rep. by its Bank Manager

Vepery Branch

Ground & I Floors, Door No.35 to 41 (Old No.28)

EVK Sampath Road, Chennai 600 007

5.Conjap Electronics Private Ltd.

Old No.9, New No.10, Krishnappa Chetty Street

(as per Property Tax Assessment Old Door No.10/1

New Door No.19, Krishnappa (C) Lane) Chintadripet

Chennai 600 002

6.M.Krishnan



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7.Amit Khemka

Partner Khemka & Co.. Chartered Accountants

Gleneden Place. No.310 (Old No.813), Poonamallee High Road

Kilpauk, Chennai 600 010

.. Respondents

Original Side Appeal filed under Order XXXVI Rules 1 and 9 of the Original Side Rules read with Clause 15 of the Letters Patent, against the order dated 29.04.2024 passed in A.No.689 of 2024 in C.S.No.8 of 2024.

For Appellants : Mr.P.R.Raman
Senior Counsel
for Mr.C.Seethapathy

J U D G M E N T

(Delivered by S.S.SUNDAR, J.)

This appeal is directed against the order dated 29.04.2024 passed by the learned Single Judge in A.No.689 of 2024 in C.S.No.8 of 2024.

2. Today, when this appeal was taken up for admission, the learned Senior Counsel appearing for the appellant/1st defendant submitted that this appeal is filed only to expunge the remarks of the learned Single Judge in paragraph 29 of the order dated 29.04.2024 passed in A.No.689 of 2024 in C.S.No.8 of 2024. The learned Senior Counsel submitted that this observation is not necessary as the appellant/1st defendant has filed only an application to settle the dispute by way of arbitration in view of arbitration clause in the partnership agreement.

3. The remarks of the learned Single Judge is extracted below for ready



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reference :

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“29. I further hold, the 1st defendant has filed this application evidently to protract the proceedings and to avoid the jurisdiction of this Court.”

4. Time and again, the Hon'ble Supreme Court has held that while dealing with the case on merits, unnecessary comments about the conduct of the party should be avoided. This Court finds no factual basis for the observation that the application is intended only to protract the proceedings. The suit is filed in 2024 and after service of notice, the application in A.No.689 of 2024 is filed immediately and the same was disposed of by an order dated 29.04.2024. This Court feels that the observation about the conduct of the appellant/ 1st defendant is not warranted and therefore, without prejudice to the rights and contentions of the plaintiff in the course of further proceedings, the observation of the learned Single Judge in the first sentence of paragraph 29 (referred *supra*) is held as unwarranted and hence, the same is expunged.

This Original Side Appeal is disposed of on the above terms. No costs.

[S.S.S.R.,J.] [A.D.M.C.,J.]
14.10.2024

Index : Yes/No Neutral Citation : Yes/No
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S.S.SUNDAR, J.



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AND
A.D.MARIA CLETE, J.

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