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C.S. No.27 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **06.02.2024**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.S. No.27 of 2020

M/s.GDJD Exports,
represented by its partner Tapan Shah

... Plaintiff

Vs.

1.M/s.Aqua Air International Freight Services

2.Dixit Dani

3.M/s.Ultima Logistics

4.Batuhan Cakmak

5.M/s.SBB Atlantic International Transportation
Shipping and Trade Ltd.

6.Batuhan Cakmak

7.M/s.Inter S.A.Switzerland

8.Moris Ba

9.M/s.Kendal Tekstil Sanayi Ve Ticaret A.S.

10.M/s.Funda Posbiyikoglu alias Linnet Cohen

... Defendants



PRAYER: Plaintiff filed under Order IV of Original Side Rules read with Order VII Rule I of C.P.C. to pass a judgment and decree and direct the defendants, jointly and severally:

(a) to pay a sum of Rs.2,10,03,252.25 together with interest at the rate of 24% per annum on Rs.73,93,837.77 from the date of the plaint till realisation;

(b) order costs of the suit.

For Plaintiff : Mr.B.Aparna Sundar for
Mr.K.Bijai Sundar

JUDGMENT

It was made clear on the last hearing date i.e. 02.01.2024 that if steps are not taken to serve the suit summons on the defendants before the next hearing date, the suit shall stand automatically dismissed for non prosecution as against the un-served defendants.

2.Learned counsel for the plaintiff has filed a Memo dated 06.02.2024. As seen from the said Memo, learned counsel for the plaintiff seeks permission of this Court to withdraw the suit. However, liberty is sought for to file a fresh suit on a future date on the same cause of action and consequently to order refund of full court fees paid in the plaint.



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3. Such a liberty cannot be granted by this Court in a case where the plaintiff has not taken steps to serve the suit summons on the unserved defendants.

4. After recording the Memo dated 06.02.2024, this Court after giving due consideration to the same, permits the plaintiff to withdraw the suit. Accordingly, this suit is dismissed as withdrawn. However, liberty as sought for in the Memo is not granted by this Court.

5. In view of the withdrawal of the suit, the registry is directed to refund the full court fees to the plaintiff.

06.02.2024

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ABDUL QUDDHOSE, J.

vga

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