



WEB COPY



O.S.A.No.211 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 25.10.2024**

CORAM :

**THE HONOURABLE MR. JUSTICE S.S. SUNDAR**

**AND**

**THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE**

**O.S.A.No.211 of 2023**

**and**

**C.M.P.No.24804 of 2023**

M/s.Taurus GKK Leathers Pvt. Ltd.,  
A Private Limited Company,  
Having its registered office at  
40/7, Ramakrishna Street,  
T.Nagar, Chennai – 600 017.  
Represented by its Director,  
M.S.G.Bhuvan Kumar

... Appellant

Vs.

1.N.Amirthalingam

2.M/s.GKK Exports Pvt. Ltd.,  
A Private Limited Company,  
Having its registered office at,  
40/7, Ramakrishna Street,  
T.Nagar, Chennai – 600 017.  
Represented by its Director,  
M.S.G.Bhuvan Kumar



O.S.A.No.211 of 2023

WEB COPY

3.M.S.G.Bhuvan Kumar,  
Partner, M/s.M.G.M. Exports,  
40/7, Ramakrishna Street,  
T. Nagar, Chennai – 600 017.

4.G.Mallika

5.M.S.G.Bhuvan Kumar

6.Manju Chamundeshwari

7.Veena Kishore

8.G.K.Kiran Aditya

9.G.K.Nandhitha

... Respondents

Original Side Appeal filed under Order XXXVI Rule 1 of Original Side Rules and Clause 15 of the Letters Patent against the order and decree dated 25.07.2023 in A.No.2884 of 2023 in C.S.No.770 of 2016 on the file of this Court.

For Appellant : Mr.Rana Prithvi  
for M/s.BFS Legal

For R1 : Mr.Harshavarthan. G  
for Mr.T.M.Mano

### **J U D G M E N T**

(Judgment was delivered by **S.S. SUNDAR, J.**)

This Original Side Appeal is directed against the order of the learned Single Judge, dated 25.07.2023, in A.No.2884 of 2023 in C.S.No.770 of



O.S.A.No.211 of 2023

WEB COPY

2.The short point that arises for consideration in this Appeal is whether the question of limitation can be relegated at the time of final hearing when the application for counter claim is entertained. The plaintiff/appellant has filed the suit for recovery of money to the tune of Rs.1.1 Crores along with interest and for consequential reliefs. In the suit, a counter claim was made by the respondent/defendant. The appellant raised the question of limitation saying that the counter claim itself is barred by limitation. Since the issue regarding limitation is a mixed question of fact, the learned Single Judge, while allowing the application for counter claim, held that the issue regarding limitation raised by the appellant will be decided during trial. This Court finds no reason to interfere with the order of the learned Single Judge, as no serious prejudice is caused to the respondent. The order is not a judgment within the meaning of Clause 15 of Letters Patent and therefore, this Court is unable to entertain this Appeal.

3.Therefore, giving liberty to the petitioner/appellant to raise all their



O.S.A.No.211 of 2023

objections before the trial Court, this Original Side Appeal is dismissed.

The suit and the counter claim will be decided on merits uninfluenced by any of the observations made by this Court on the question of limitation.

No costs. Consequently, connected miscellaneous petition is closed.

**(S.S.S.R., J.) (A.D.M.C., J.)**  
**25.10.2024**

mkn

Internet : Yes

Index : Yes

Neutral Citation : Yes



WEB COPY



O.S.A.No.211 of 2023

**S.S. SUNDAR, J.**  
**and**  
**Dr.A.D. MARIA CLETE, J.**

mkn

**O.S.A.No.211 of 2023**

**25.10.2024**

Page 5