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A. No.4932 of 2024

A. No.4932 of 2024
in
C.S. (COMM. DIV.) No.74 of 2023

ABDUL QUDDHOSE, J.

The suit is ripe for trial. The case is listed for fixing the Case Management Schedule. The suit was filed in the year 2023. An application seeking for summary judgment has been filed by the plaintiff in A. No.4932 of 2024.

2. According to the applicant / plaintiff, a sum of Rs.68,00,000/-, an admitted amount is due and payable by the respondent / defendant to the plaintiff.

3. However, the learned counsel for the respondent / defendant would submit that the said amount is not payable to the applicant / plaintiff for the following reasons :-

a) As part of the contractual relationship between the applicant / plaintiff and the defendant, the defendant ought to have re-conveyed the property in favour of the plaintiff. However, according to the defendant, the subject property was sold to the plaintiff through a sale deed, dated 01.12.2017, hence, the plaintiff ought to have been reconveyed the property to the defendant as per the understanding between the defendant and the plaintiff. But according to the



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defendant despite the said undertaking, the plaintiff failed to reconvey the property.

4. As seen from the written statement filed by the defendant, several defences have been raised which on a prima facie consideration, this Court is of the opinion that there are several triable issues, which can be adjudicated only after trial. When the defendant has categorically disputed that there was an admission of liability given by the defendant in favour of the plaintiff as claimed by the plaintiff in A. No.4932 of 2024 and that too when, on a perusal of the written statement, this Court finds that there are several triable issues involved, the question of passing a summary judgment as prayed for by the plaintiff in A. No.4932 of 2024 does not arise.

5. It is also to be noted that even though the suit was filed in the year 2023 itself, the application seeking for summary judgment was filed only in the year 2024. The suit is now ripe for trial. No useful purpose would be served, if A.No.4932 of 2024 is heard at this stage, when the suit is ripe for trial.

6. Without expressing opinion on the merits of the said application and only on the ground that the suit is now ripe for trial and that too the suit being a commercial suit, there is no necessity for this Court to adjudicate A. No.4932 of 2024 at this stage.



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7. For the foregoing reasons, A. No.4932 of 2024 is ordered to be closed.

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8. Both the learned counsels are directed to file a joint draft Case Management Schedule on the next hearing date.

9. Post the matter for Case Management Hearing on **09.12.2024**.

04.12.2024

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