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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2025

CORAM

THE HONOURABLE MR JUSTICE P.B. BALAJI

A.S.No.757 of 2025

Subbachari

... Appellant

Vs.

Smita Kelton Shah

... Respondent

Prayer: Appeal Suit filed under Section 96 of CPC, to set aside the impugned order dated 28.03.2024 in I.A.No.5 of 2023 in O.S.No.153 of 2023 on the file of the District Munsif cum Judicial Magistrate No.I, Hosur.

For Appellant : Mr.Aashish Jain Lunia

For Respondent : Mr.P.Murugesan

ORDER

The present appeal has been filed, challenging the order in I.A.No.5 of 2023 under Section 96 of CPC. The said I.A.No.5 of 2023 was filed for rejection of the plaint under Order VII Rule 11 of CPC.

2.The District Munsif cum Judicial Magistrate Court No.I, Hosur, in



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and by order dated 28.03.2024, has allowed I.A.No.5 of 2023 and thereby, the plaint in O.S.No.153 of 2023 has been rejected, as against which, the present appeal suit has been preferred.

3.The learned counsel for the petitioner would state that the counsel, who was engaged by the appellant before the Trial Court, has filed a memo, stating that he has no objection for the application for rejection of the plaint being allowed. In short, it is the contention of the learned counsel for the appellant that the counsel, who was engaged to appear for the appellant, has colluded with the respondent. It is also brought to my notice that a complaint has been filed before the Bar Council.

4.Be that as it may, I find that that is not the only ground on which the application for rejection of the plaint has been allowed. The District Munsif cum Judicial Magistrate Court No.I, Hosur, has also assigned various other reasons and the memo filed by the counsel for the petitioner is one additional reason for rejecting the plaint.

5.In the light of the above, the Appeal Suit is dismissed, giving liberty



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to the petitioner to move the competent Sub-Court, by way of regular First Appeal. The time taken by the appellant in prosecuting the appeal before this Court is to be excluded. The Registry is directed to return the original order and decretal order in I.A.No.5 of 2023 to the counsel for the appellant to enable the appellant to prefer a regular First Appeal before the Sub-Court, Hosur. The appeal, if filed, within a period of four weeks from the date of receipt of the original order and decretal dated 28.03.2024 in I.A.No.5 of 2023, shall be entertained, without insisting on any application for condonation of delay. The First Appellate Court shall also not give any weightage to the memo filed by the counsel for the petitioner stating that he has no objection for the plaint being rejected. The appeal shall be decided on merits, after affording a fair opportunity to both the parties. The counsel for the petitioner shall file a photostat copy of the original order and decretal in I.A.No.5 of 2023, while taking back the original order and decretal order in I.A.No.5 of 2023.

04.09.2025

Index : Yes / No

Internet : Yes / No

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P.B. BALAJI.J.

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To
The District Munsif cum Judicial Magistrate Court No.I, Hosur.

A.S.No.757 of 2025

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