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OSA (CAD) No.13 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

OSA (CAD) No.13 of 2025

&

C.M.P.No.1989 of 2025

1. M/s. SRK Cinemas
Rep. by Managing Partner and
Authorised Signatory R.Suresh
Plot No.2173, Door No.3
L Block, 6th Cross Street
12th Main Road, Anna Nagar
Chennai 600 040.

2. R.Suresh

3. Kasthuri

4. Vijayalakshmi

5. S.Lakshmi

.. Appellants

Vs.

R.Kothandaraman

.. Respondent

Prayer : Appeal under Section XIII of the Commercial Courts Act, 2015
against the order dated 06.11.2024 made in A.No.3381 of 2024 in



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C.S.(Comm. Div.) No.79 of 2024.

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For Appellants : Mr.M.Mubarak Ahmed
For Ahmed Associates

For Respondent : Mr.S.Vasudevan
For Mr.A.Arokia Satheesh

JUDGMENT

(Judgment of the Court was delivered
by the Hon'ble Chief Justice)

This appeal impugns a common order dated 06.11.2024 passed by a learned Single Judge disposing two interim applications, namely A.No.3379 of 2024 and A.No.3381 of 2024. A.No.3379 of 2024 was for a relief with which we are not immediately concerned. A.No.3381 of 2024 was to grant leave to file additional written statement.

2. Between the parties, there are various disputes and the respondent has filed the suit to recover a sum of Rs.5,92,92,000/-. The suit is filed and registered as a commercial suit in the Commercial Division of this Court. Within the time provided after receipt of suit summons, defendants, who are appellants herein, filed their written statement on 29.04.2024. In the



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written statement, it is stated that a promissory note dated 05.05.2020 that was relied upon by plaintiff in the plaint, was a concocted document fabricating the signature of second defendant. It is also stated in the written statement that defendants have contemplated steps for proving the forgery of the signature of the second defendant in Document No.3, filed with the plaint, through accredited handwriting experts.

3. On 30.04.2024, defendants applied to one Truth Labs, Chennai to confirm the veracity and genuinity of the signature of second defendant in the said promissory note dated 05.05.2020. After defendants received a report dated 16.05.2024 from the said Truth Labs, A.No.3381 of 2024 was filed on 20.06.2024 for leave to file additional written statement.

4. Counsel for respondent, i.e. plaintiff, in fairness, agreed that this application dated 20.06.2024 was also within the 120 days prescribed under the Commercial Courts Act, 2015 for filing written statement.

5. The learned Single Judge, however, closed the application because



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the Court did not find merit in another application No.3379 of 2024, but, no independent reasons were given. Appellants' counsel submitted that the order in A.No.3381 of 2024 was without giving any reasons. On this, we would agree with counsel. At the same time, counsel for respondent submitted that this being a commercial suit, no intra court appeal would lie against the order impugned.

6. At the same time, admittedly, without deciding this application to file additional written statement, we were informed that the Court proceeded to frame issues, record evidence and now, written arguments were also submitted and the Court has to only deliver its judgment.

7. When we asked counsel for respondent as to how the Court could have proceeded with the trial when defendants' application for additional written statement filed within the outer limit of 120 days has been pending and the issue of jurisdiction raised will require much time to be decided, and that would mean the suit itself will have to be stayed, counsel for respondent stated that keeping open respondent's rights and contentions in



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the suit and only for the purpose of early disposal of the suit, without conceding to the jurisdiction of the Court, the Court may quash the impugned order dated 06.11.2024 to the limited extent of it applying to application No.3381 of 2024.

8. Accordingly, without going into the issue of jurisdiction and without considering the merits of the matter and the rival contentions, we quash and set aside the order impugned insofar as it relates to A.No.3381 of 2024 and remand the matter to the learned Single Judge to consider the application. We express no opinion.

9. Counsel for appellants states that if the application is allowed, then, he would apply to the Court for framing additional issues and for leave to lead further evidence in the matter keeping open all the rights and contentions of the plaintiff.

10. Counsel for appellants also stated that if plaintiff has to lead additional evidence, he may also do so. Plaintiff's rights are not taken away



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in that regard.

11. Appeal is disposed of. There shall be no order as to costs.

Consequently, the interim application also stands disposed.

(K.R.SHRIRAM, CJ)

(MOHAMMED SHAFFIQ.J.)

17.02.2025

Index : Yes/No

Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
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(kpl)

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