

VERDICTUM.IN

IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.1320-1321 OF 2024
(Arising out of S.L.P.(Civil) Nos.18682-18683 of 2023)

M.P. SHYAM ... APPELLANT(S)

VS.

SUJA THOMAS ... RESPONDENT(S)

O R D E R

Leave granted.

Heard the learned senior counsel appearing for the appellant and the learned counsel appearing for the respondent.

The appellant is the plaintiff and the respondent is the defendant. The respondent applied for rejection of the plaint by invoking Rule 11 of Order VII of the Code of Civil Procedure, 1908. The Trial Court rejected the said application.

Being aggrieved by the said order passed by the Trial Court, the respondent approached the High Court by filing a petition under Article 227 of the Constitution of India. The High Court ought to have decided the petition one way or the other. Without adverting to the merits, the High Court has recorded in the impugned order that the application for rejection of the plaint ought to

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have been allowed. There is no specific finding recorded by the High Court why the application should have been allowed. Thereafter, a strange approach is adopted by the High Court while passing the impugned order by remanding the application for rejection of the plaint to the Trial Court. It was the duty of the High Court to hear the petition on merits and decide whether the order of the Trial Court was legal or otherwise. The remand was wholly unwarranted.

Accordingly, we quash and set set aside the impugned judgment dated 3rd July, 2023 and restore OP(C)Nos.2444 and 2480 of 2022 before the High Court of Kerala.

A copy of this order shall be sent to the Registrar (Judicial) of the High Court of Kerala who will ensure that the restored petitions are placed before the roster Bench on 26th February, 2024 for the purposes of fixing a date of hearing.

We direct the appellant and the respondent to remain present before the roster Bench on 26th February, 2024.

All contentions are left open to be decided by the High Court.

The appeals are partly allowed on the above terms.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
January 29, 2024.

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ITEM NO.58

COURT NO.7

SECTION XI-A

**S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (C) No(s).18682-18683/2023

(Arising out of impugned judgment and order dated 03-07-2023 in OPC Nos.2444/2022 and 2480/2022 passed by the High Court of Kerala at Ernakulam)

M.P. SHYAM

Petitioner(s)

VERSUS

SUJA THOMAS

Respondent(s)

(IA No. 170431/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 29-01-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s)

Mr. V Chitambaresh, Sr. Adv.
Mr. Ramesh Babu M. R., AOR

For Respondent(s)

Ms. Renuka Sahu, AOR
Mr. Shubham Bhatia, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are partly allowed in terms of the signed order.

Pending application also stands disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER

(Signed order is placed on the file.)