

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 04.03.2016**

**CORAM**

**THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR**

**C.R.P (PD) No.2942 of 2015**

**&**

**M.P.No.1 of 2015 & C.M.P.No.201 of 2016**

1.M/s.Gammon India Ltd.,  
Gammon House  
Veer Sawarkar Marg  
P.B.No.9129, Prabha Devi  
rep. By its Managing Director

2.M/s.Gammon India Ltd.,  
Jindal Civil Works  
Toranagallu Village and Post  
Bellari District, Karnataka  
Rep. By its Assistant General Manager

.. Petitioners

vs.

V.Lawrence  
Proprietor, Jessi Constructions  
10, Anna Gramam, Opp to Jeyveli Arch Gate  
Gandhinagar – 607 308

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal orders dated 07.01.2015 passed in I.A.No.467 of 2014 in O.S.No.167 of 2013 on the file of the Principal District Court, Cuddalore.

For Petitioner : Mrs.Hema Sampath  
for Ms.R.Meenal  
For Respondents : Mr.D.Jaganathan

**ORDER**

The defendants in the suit O.S.No.167 of 2013 on the file of the Principal District Judge, Cuddalore are the petitioners in the present revision preferred under Article 227 of the Constitution of India.

2. The suit was filed by the respondent against the petitioners herein for recovery of hire charges for the machineries hired by the petitioners herein from the respondent. The petitioners herein are contesting the suit and in their written statement, among other things, they have also raised the issue of territorial jurisdiction and also an issue regarding limitation. Contenting that both the issues go to the root of the case, the petitioners filed an application in I.A.No.467 of 2014 for deciding the said issues as preliminary issues. The said application was resisted by the respondent herein.

3. After hearing both sides, the learned trial Judge passed the impugned order dated 07.01.2015 dismissing the said application

holding that the suit was ripe for trial and those issues could be conveniently decided along with the other issues. The learned trial Judge also opined that the said questions were mixed question of law and fact and they could not be decided without the parties adducing evidence. It is as against the said order, the present revisions came to be filed.

4. The respondent has entered appearance through counsel. This Court has granted an order of stay of further proceedings and the respondent has also filed a counter in the said petition and sought an order vacating the stay.

5. Today, Mr.D.Jaganathan, learned counsel appearing for the respondent and Mrs.Hema Sampath, learned senior counsel appearing on behalf of Ms.R.Meenal, the learned counsel on record for the petitioners, submit that arguments on the merits of the Civil Revision Petition itself can be heard and the Civil Revision Petition can be disposed of. Accordingly, the arguments advanced by Mrs.Hema Sampath, learned senior counsel appearing on behalf of Ms.R.Meenal, learned counsel on record for the petitioners and Mr.D.Jaganathan, learned counsel appearing for the respondent are heard. The copy of

the impugned order, grounds of revision and the other documents produced in the form of typed-set of papers are also perused.

6. The agreement for hiring the machineries came to be concluded through letters and e-mail. The revision petitioners are placed at Mumbai and Bellari District of Karnataka State, whereas the respondent/plaintiff is placed at Neyveli in Tamil Nadu. It is the contention of the respondent/plaintiff that part of cause of action arose at Neyveli, whereas the same is disputed by the revision petitioners. The revision petitioners also claim that the claim made in the suit is barred by limitation, whereas the respondent/plaintiff has made an averment in the plaint that there was an acknowledgment of liability by a payment made on 07.08.2010 and the suit was filed within the period of limitation thereafter.

7. The learned trial Judge rightly held that under the said circumstances, the question of limitation could not be decided based on the pleadings and it should be decided based on the evidence to be adduced in the suit. Regarding the question of jurisdiction also, considering the contention of the plaintiff that part of cause of action arose at Neyveli whereas as the defendant contend that no part of

cause of action arose at Neyveli, the said question could not be resolved based on the pleadings and the same can be decided only after the parties adduce evidence. This Court does not find any defect or infirmity in the order passed by the trial Court relegating the issues regarding jurisdiction and limitation to be decided along with other issues and refusing to try them as preliminary issues. There is no merit in the revision and the same deserves to be dismissed.

Accordingly, the Civil Revision Petition is dismissed. Consequently, C.M.P.No.201 of 2016 shall stand allowed, interim stay granted on 23.07.2015 in M.P.No.1 of 2015 shall stand vacated and M.P.No.1 of 2015 shall stand dismissed. No costs.

**04.03.2016**

Index: Yes/No  
Internet: yes/No  
gpa

To

The Principal District Court  
Cuddalore

**P.R.SHIVAKUMAR.J.,**

gpa

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