

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2016

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Second Appeal No.317 of 2008

AND

MP NO.1 of 2008

M/s.Remy Perfume Private Limited,
By its Managing Director
having its Office at No.1, Arcot Road,
Chennai 600 087. ... Appellant/Appellant/ 1st
Defendant

vs.

1.Le-Chateline Educational Society,
Rep. By its Secretary having
Registered Office at "Home Stead",
No.1, Arcot Road, Valasaravakkam,
Chennai 600 087. ...1st Respondent/1st Respondent/
Plaintiff

2.The Bank of Madurai Limited,
By its Manager, now merged
with ICICI Bank, Madurai. ...2nd Respondent/ 2nd Respondent/
2nd Defendant

Prayer: Second Appeal filed under Section 100 of C.P.C. against
the judgment and decree dated 27.04.2005 made in A.S.No.56 of
2003 on the file of the Principal District and Sessions Court,
Chengalpattu, confirming the judgment and decree dated
31.10.2002 made in O.S.No.87 of 1984 on the file of Sub Court,
Poonamallee.

For Appellant : Mr.N.Damodaran

For Respondents : Mr.P.V.Muralidhar for R2
R1 : No appearance

J U D G M E N T

The appellant is the first defendant in the suit for
recovery of money. The first respondent herein as the plaintiff
filed the said suit against the appellant and the second
respondent herein for recovery of a sum of Rs.72,000/- together

with interest based on a business transaction taken place between the parties.

2.The trial court on appreciation of the facts and circumstances and the evidences let in by the parties, decreed the suit by directing the second defendant to refund a sum of Rs.62,000/- to the plaintiff with interest and the first defendant to refund a sum of Rs.10,000/- to the plaintiff with interest. Challenging the judgment and decree of the trial court, two separate appeals were filed in A.S.Nos.56 of 2003 and 77 of 2003, by the first defendant and second defendant respectively.

3.The Appellate Court by a common judgment and decree upon analysis of entire facts and circumstances dismissed both the appeals. The first defendant alone filed the present second appeal aggrieved against the concurrent findings rendered by the courts below in so far as his liability is concerned which is in respect of only Rs.10,000/-, whereas the second defendant seems to have not filed any appeal before this court against such concurrent finding.

3.Heard the learned counsel appearing for the appellant and the learned counsel appearing for the second respondent.

4.This matter is listed before this court under the caption of "Notice of motion". I have perused the decisions rendered by the courts below concurrently holding against the appellant. I find no grounds to interfere with such concurrent finding rendered based on appreciation of facts and evidence let in by the parties. I do not find any substantial question of law arising in this matter for consideration, more particularly, when the common judgment rendered by the lower appellate court in so far as the second defendant has become final and conclusive, as no further appeal has been filed as admitted by both parties. Accordingly, the second appeal fails and the same is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Principal District and Sessions Judge,
Chengalpattu.

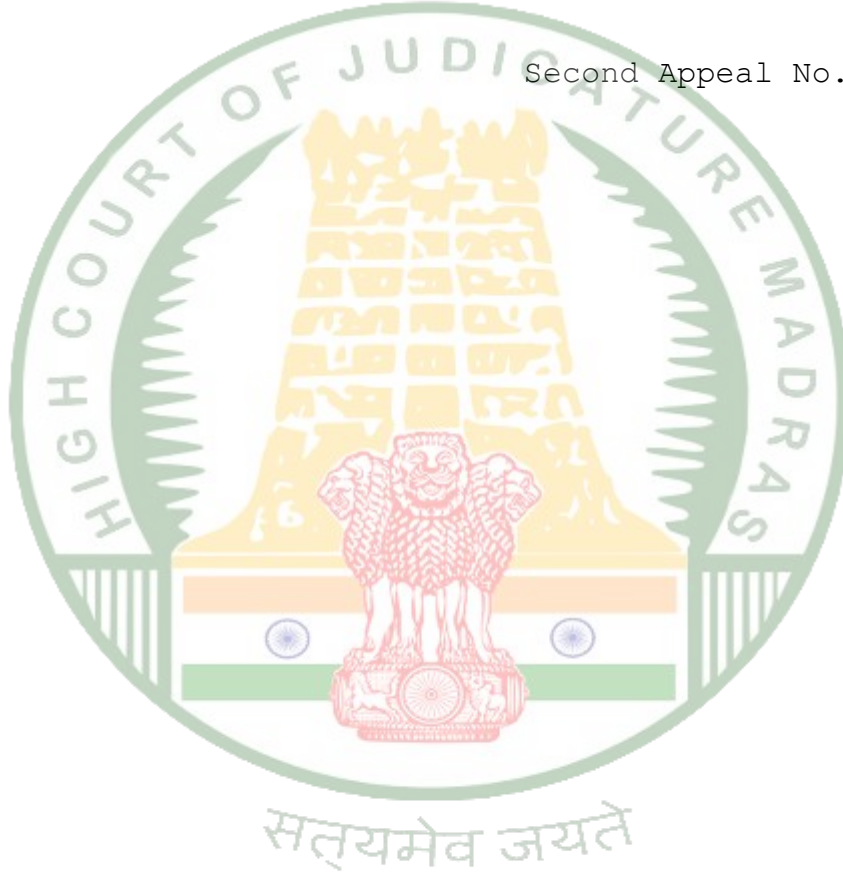
2.The Sub Judge,
Poonamallee.

+1 cc to Mr.N.Damodaran, advocate,sr.53083

+1 cc to Mr.P.V.Muralidhar, advocate,sr.52925.

vgi(co)
krd 25/10

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