

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP [PD] No.2827 of 2016 and
CMP.No.14351 of 2016

1.K.Baskaran

2.Mrs.K.Baskaran

...Petitioners

versus

Sha Jeswanthraj Ashok Kumar

rep.by its Proprietrix Mrs.Prathibala

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order of the learned XII Assistant City Civil Judge, Chennai dated 11.08.2016 in IA.No.8916/2016 in OS.No.5540/2005.

For Petitioners : Mr.B.Thilak Narayanan

For Respondent : Mr.S.Bhuvaneswaran

O R D E R

The above civil revision petition has been filed by the petitioners against the order in IA.No.8916/2016 in OS.No.5540/2005 dated 11.08.2016 on the file of the learned XII Assistant City Civil Judge, Chennai.

2 The respondent filed a suit in OS.No.5540/2005 against the petitioners claiming a money decree. The suit was contested by the petitioners herein on the ground that the Court has no jurisdiction to try the matter. Thereafter, the petitioners filed an application in IA.No.8916/2016 requesting the Trial Court to take up the issue with regard to jurisdiction as a preliminary issue. The Trial Court considered the issue and passed an order rejecting the contention raised by the petitioners with regard to jurisdiction. The said order is under challenge in this Civil Revision Petition.

3 Heard the learned counsel for the petitioners and the learned counsel for the respondent.

4 The petitioners filed an application before the Trial Court contending that the Court at Chennai has no jurisdiction. According to the petitioners, the entire transaction took place at Dharapuram and as such, the Court at Dharapuram alone, is entitled to try the suit in question. The learned Judge dismissed the application on the ground that part of the cause of action has arisen at Chennai. The learned Judge placed reliance on the invoices issued by the respondent to show that the cause of action has arisen at Chennai.

5 The so called invoices were not marked before the Trial Court.

6 The Trial Court was not correct in placing reliance on unmarked documents to decide the question of jurisdiction.

7 In the result, the order dated 11.08.2016 made in IA.No.8916/2016 in OS.No.5540/2005 is set aside. The learned Trial Judge is directed to frame an issue with regard to jurisdiction and try the same along with the other issues, uninfluenced by the observation contained in the order impugned in this Civil Revision Petition. It is made clear that a specific finding should be given with regard to the jurisdiction of the Court by the Trial Court.

8 The Civil Revision Petition is allowed as indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

29.09.2016

AP

To
The Judge
XII Assistant City Civil Court
Chennai.

K.K.SASIDHARAN, J.

AP

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