

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.759 of 2016
and C.M.P.No.4186 of 2016

M/s.DBM Enterprises Ltd.
Rep by Managing Director
V.Sathyanarayanan

... Petitioner

Vs

Chemplast Sanmar Ltd.
Trubore Piping Systems
Rep by its Assistant General Manager [Legal],
K.G.Bhushanam

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against part of conditional order and decree dated 25.01.2016 passed in I.A.No.10332 of 2013 in O.S.No.6263 of 2011 by the learned IV Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.K.S.Ganesh Babu

ORDER

The 1st defendant, namely, M/s.DBM Enterprises Ltd., who was sued by Chemplast Sanmar Ltd. for the goods supplied to it, is the petitioner in the present Civil Revision Petition. The suit came to be filed by the respondent herein, namely, Chemplast Sanmar Ltd. under Order XXXVII Rule 1 of C.P.C., based on the orders placed for supply of PVC pipes, invoices evidencing supply of PVC pipes and letters

acknowledging the liabilities. The revision petitioner herein, namely, M/s.DBM Enterprises Ltd. filed I.A.No.10332 of 2013 praying for an order granting unconditional leave to defend the suit. The learned trial Judge, after hearing, came to the conclusion that the plea of defence raised by the revision petitioner herein, as defence plea in the suit were found to be vexatious, as the transaction was evidenced by the order placed by the 1st defendant and the invoices evidencing supply of goods. So far as the contention of the 1st defendant that the suit is barred by limitation, the learned trial Judge, referring to the letters of acknowledgments relied on by the plaintiff held that the defence was only vexatious and hence, no unconditional leave to defend could be granted. However, the learned trial Judge chose to grant the leave on condition that 25% of the suit claim should be deposited. It is as against the said order, the present Civil Revision Petition has been filed by the 1st defendant.

2. Upon hearing the submissions of Mr.K.S.Ganesh Babu, learned counsel for the revision petitioner and on perusal of the impugned order so far as which relates to the application filed by the revision petitioner, the copy of the affidavit filed in the leave to defend application and the other documents produced in the form of typed set of papers, this Court does not find any scope for interference with the well considered order of the learned trial Judge granting leave to the revision petitioner herein to defend the suit, on condition that 25% of the suit claim should be deposited to the credit of the suit.

3. The exercise of jurisdiction by the trial Court to impose such a condition, after arriving at a conclusion that the defence pleas raised by the revision petitioner/ 1st defendant are only vexatious, cannot be found fault with. There is no merit in the revision and the revision deserves dismissal.

Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

09.03.2016

Index : Yes/No
Internet : Yes/No
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To

The IV Additional Judge,
City Civil Court, Chennai.

P.R.SHIVAKUMAR, J.

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