

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2016

CORAM

THE HONOURABLE MR. JUSTICE **M. SATHYANARAYANAN**

C.S.No.704 of 2004

M/s. Southern Petrochemical Industries
Corporation Limited,
having Office at
No. 88, Mount Road,
Guindy, Chennai - 600 032
and represented by its
Authorised Signatory
Mr.S.Mohanasundaram ... Plaintiff

Vs.

1. M/s. Priyadarshini Fertilisers
Rep. by its Managing Partner
Mr.Garlapati Venkat Reddy
Door No. 1-6, Main Road
Vemulapalli - 508 217
Nalgonda District
Andhra Pradesh.
2. Mr.Garlapati Venkat Reddy
S/o. Mr.Pichi Reddy
Door No. 7-370, Bangaragadda
Miryalguda - 508 207
Nalgonda District,
Andhra Pradesh.
3. Mrs.Garlapati Nirmala
W/o. Mr.Garlapati Venkat Reddy
Door No. 7-370, Bangaragadda
Miryalguda - 508 207
Nalgonda District,
Andhra Pradesh. ... Defendants

PRAYER: This Civil Suit filed under Order VII Rule 1 CPC read with Order IV Rule 1 of the O.S. Rules, praying for the following reliefs:

(a) directing the defendants to pay jointly and severally the plaintiff a sum of Rs.27,30,737/- together with interest calculated at the rate of 20% per annum on Rs.16,79,392/- from 01.06.04 till the date of realisation in full;

(b) for the cost of the suit.

For Plaintiff : Mr.A.Abdul Hameed
for M/s. Anand Abdul and Vinodh Associates

For Defendants : Set ex-parte

JUDGMENT

The plaintiff would aver that it is a public limited company registered under the provisions of Companies Act 1956 and it is carrying on business of manufacturing and sale of Fertilizers and other connected products. The plaintiff would state that vide agreement dated 13.03.2000 entered at Chennai between them and the first defendant, the first defendant was appointed as a dealer for the products manufactured by the plaintiff. In terms of the said agreement, the first defendant had purchased fertilisers from the plaintiff and however, failed to pay the price promptly for the products

supplied and thereby liable to pay a huge sum of money towards outstanding. The petitioner would further state that supplies were effected vide invoices commencing from 25.01.01 ending with 25.02.2001 and for effecting supplies delivery notes were also available.

2. It is the claim of the plaintiff that the first defendant is liable to pay total outstanding amount of Rs.27,30,737/- with interest at the rate of 20% p.a and a sum of Rs.5,000/- paid by the first defendant has already been given credit. The first defendant for settlement of the dues has issued a cheque bearing No. 225594 dated 13.01.2003 drawn on State Bank of Hyderabad for Rs.16,79,342/- and the said cheque on presentation was dishonoured on 11.11.2003 with an endorsement "insufficient funds" and in this regard, the plaintiff has also filed a complaint under Section 138 read with 142 of the Negotiable Instruments Act before the Court of the learned Judicial Magistrate, Miryalaguda. It is further averred by the plaintiff that the first defendant is also running account with the plaintiff in respect of the supply effected and whatever payments made by them, have been given credit and the last of the payment was made by the first defendant on 09.05.2002 vide cheque No. 241934. The plaintiff in this regard has also issued

legal notice dated 27.03.2004 to the defendants calling upon them to meet out the receipt of the invoices and no reply has been received from the first defendant. The legal notices sent to the defendants 2 and 3 were returned with an endorsement "refused". Hence, the plaintiff came forward to file the present suit for recovery of money based on the supplies effected.

3. Though the defendants were served and their names printed in the cause list, they did not appear and hence, the suit was directed to be listed before this Court under the caption for "Undefended Board" and they were called absent and set ex-parte on 23.04.2014.

4. This Court has framed the following issues on 10.06.2014 for trial and adjudication:-

सत्यमेव जयते
"1. Whether the plaintiff has supplied fertilizers to the first defendant in terms of the agreement dated 13 March 2000?

2. Whether the plaintiffs are entitled to a sum of Rs.27,30,737/- towards supply of fertilizers?

3. Whether the plaintiff is entitled to interest at 20% as claimed in the suit?

4. Relief and cost?"

5. The learned counsel appearing for the plaintiff has drawn the attention of this Court to the pleadings as well as the proof affidavit and would submit that the agreement dated 13.03.2000 was entered into between the plaintiff and the first defendant marked as Ex.A-2 and in terms of the agreement, supplies have been effected through invoices and the same are marked as Ex.A-3 to A-72 and the cheque issued by the first defendant for Rs.16,79,392/- was returned under Ex. A-73 and in this regard, the private complaint has also been filed on the file of the Court of the learned Judicial Magistrate, Miryalaguda in C.C.No. 10 of 2004 and though the legal notice under Ex. A-74 was sent on 27.03.2004, the first defendant though received the same did not respond to the said legal notice and the defendants 2 and 3 refused to receive the legal notices and since they have not choose to appear before this Court, they were remained ex-parte.

6. It is the further submission that the first

defendant is a partnership firm and the defendants 2 and

3 are partners and therefore, all of them are jointly and severally liable to clear the debts due and payable to the plaintiff and prays for decreeing the suit with interest at 20% p.a and also with the cost of the suit.

7. This Court has perused the pleadings and considered the submission of the learned counsel appearing for the plaintiff and also perused the proof affidavit of PW-1 in lieu of chief examination and also Exs. A-3 to A-76.

8. A perusal of Ex. A-2 would disclose that the agreement dated 13.03.2000 came into between the plaintiff and the first defendant and in the conditions of the agreement, the plaintiff has effected supply of fertilisers to the first defendant and also raised invoices and also effected supplies as evidenced by Exs. A-3 to A-72. The first defendant in acknowledgement of the dues payable had also issue da cheque bearing No. 225594 for a sum of Rs.16,79,342/- and it was returned under Ex. A-73 and in this regard, a criminal complaint was also lodged on the file of the Court of the learned Judicial Magistrate, Miryalaguda in C.C.No. 10 of 2004. The plaintiff in this regard has also passed a legal notice under Ex. A-74 and thought the first defendant

received the same did not send any reply and the legal notices sent to the defendants 2 and 3 were returned with an endorsement "refused". As per the statement of account maintained by the plaintiff, the defendants are due and payable for a sum of Rs.16,79,392/- as on 30.04.2004 and as per the invoices marked under Exs. A-3 to A-72, the interest at the rate of 20% p.a will be charged for the dues. In the considered opinion of this Court, the plaintiff through overwhelming documentary evidence had proved and substantiated their claim. Hence, all issues are answered in favour of the plaintiff.

9. In the result, there shall be a Judgment and Decree directing the defendants jointly and severally to pay a sum of Rs.27,30,737/- together with interest at the rate of 20% per annum on Principal of Rs.16,79,392/- from 01.06.04 till the date of the presentation of the plaint and thereafter interest at 12% p.a on the Principal sum till realisation with cost of the suit.

List of Witnesses:

P.W.1 – Mr.J.Rajan

List of Exhibits:

1. Ex.P1 – Original Authorisation letter dated 04.07.2014
2. Ex.P2 – Original dealership agreement dated 13.03.2000
3. Ex.P3- Office copy of dealer invoice dated 25.01.2001
4. Ex.P4 – Office copy of the ware house delivery note dated 21.01.2001
5. Ex.P5 – Office copy of dealer invoice dated 25.01.2001
6. Ex.P6 – Office copy of the ware house delivery note dated 24.01.2001
7. Ex.P7 – Office copy of dealer invoice dated 30.12.2000
8. Ex.P8 – Office copy of the ware house delivery note dated 29.12.2000
9. Ex.P9 – Office copy of dealer invoice dated 29.01.2001
10. Ex.P10 – Office copy of the ware house delivery note dated 29.01.2001.
11. Ex.P11 – Office copy of dealer invoice dated 31.12.2000
12. Ex.P12 – Office copy of the ware house delivery note dated 31.12.2000
13. Ex.P13 – Office copy of dealer invoice
14. Ex.P14 – Office copy of the ware house delivery note dated 31.12.2000
15. Ex.P15 - Office copy of dealer invoice dated 31.12.2000
16. Ex.P16 - Office copy of the ware house delivery note dated 31.12.2000
17. Ex.P17 - Office copy of dealer invoice dated 31.12.2000
18. Ex.P18 - Office copy of the ware house delivery note dated 31.12.2000

19. Ex.P19 - Office copy of dealer invoice dated 31.12.2000
20. Ex.P20 - Office copy of the ware house delivery note dated 31.12.2000
21. Ex.P21 - Office copy of dealer invoice dated 31.01.2001
22. Ex.P22 - Office copy of the ware house delivery note dated 27.01.2001
23. Ex.P23 - Office copy of dealer invoice
24. Ex.P24 - Office copy of the ware house delivery note dated 29.01.2001.
25. Ex.P25 - Office copy of dealer invoice dated 31.01.2001
26. Ex.P26 - Office copy of the ware house delivery note dated 31.01.2001
27. Ex.P27 - Office copy of dealer invoice dated 31.01.2001
28. Ex.P28 - Office copy of the ware house delivery note dated 31.03.2001
29. Ex.P29 - Office copy of dealer invoice dated 31.01.2001
30. Ex.P30 - Office copy of the ware house delivery note dated 31.01.2001.
31. Ex.P31 - Office copy of dealer invoice dated 31.01.2001
32. Ex.P32 - Office copy of the ware house delivery note dated 31.01.2001.
33. Ex.P33 - Office copy of dealer invoice dated 15.02.2001
34. Ex.P34 - Office copy of the ware house delivery note dated 15.02.2001
35. Ex.P35 - Office copy of dealer invoice dated 19.02.2001
36. Ex.P36 - Office copy of the ware house delivery note dated 15.02.2001.

37. Ex.P37 - Office copy of dealer invoice dated 19.02.2001
38. Ex.P38 - Office copy of the ware house delivery note dated 15.02.2001.
39. Ex.P39 - Office copy of dealer invoice dated 19.02.2001
40. Ex.P40 - Office copy of the ware house delivery note dated 15.02.2001.
41. Ex.P41 - Office copy of dealer invoice dated 19.02.2001
42. Ex.P42 - Office copy of the ware house delivery note dated 15.02.2001.
43. Ex.P43 - Office copy of dealer invoice dated 19.02.2001
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45. Ex.P45 - Office copy of dealer invoice dated 19.02.2001.
46. Ex.P46 - Office copy of the ware house delivery note dated 15.02.2001.
47. Ex.P47 - Office copy of dealer invoice dated 19.02.2001.
48. Ex.P48 - Office copy of the ware house delivery note dated 15.02.2001.
49. Ex.P49 - Office copy of dealer invoice dated 19.02.2001.
50. Ex.P50 - Office copy of the ware house delivery note dated 15.02.2001.
51. Ex.P51 - Office copy of dealer invoice dated 19.02.2001.
52. Ex.P52 - Office copy of the ware house delivery note dated 15.02.2001.
53. Ex.P53 - Office copy of dealer invoice dated 20.02.2001.
54. Ex.P54 - Office copy of the ware house delivery note dated 20.02.2001.
55. Ex.P55 - Office copy of dealer invoice dated 25.02.2001.

56. Ex.P56 - Office copy of the ware house delivery note dated 20.02.2001.
57. Ex.P57 - Office copy of dealer invoice dated 25.02.2001.
58. Ex.P58 - Office copy of the ware house delivery note dated 20.02.2001.
59. Ex.P59 - Office copy of dealer invoice dated 30.01.2001.
60. Ex.P60 - Office copy of the ware house delivery note dated 30.01.2001.
61. Ex.P61 - Office copy of dealer invoice dated 20.02.2001.
62. Ex.P62 - Office copy of the ware house delivery note dated 20.02.2001.
63. Ex.P63 - Office copy of dealer invoice dated 24.01.2001.
64. Ex.P64 - Office copy of the ware house delivery note dated 23.01.2001.
65. Ex.P65 - Office copy of dealer invoice dated 24.01.2001.
66. Ex.P66 - Office copy of the ware house delivery note dated 23.01.2001.
67. Ex.P67 - Office copy of dealer invoice dated 20.02.2001.
68. Ex.P68 - Office copy of the ware house delivery note dated 20.02.2001.
69. Ex.P69 - Office copy of dealer invoice dated 25.02.2001.
70. Ex.P70 - Office copy of the ware house delivery note dated 20.02.2001.
71. Ex.P71 - Office copy of dealer invoice dated 25.02.2001.
72. Ex.P72 - Office copy of the ware house delivery note dated 20.02.2001.
73. Ex.P73 (series) - Photocopies of the dishonoured cheque along with return memo.

74. Ex.P74 - Office copy of the legal notice issued by the plaintiff's
counsel to the defendants dated 27.03.2004.

75. Ex.P75 - Original statement of accounts.

76. Ex.P76 - Original Power of Attorney dated 30.06.2004.

Sd/M.S.N.J

19.01.2016

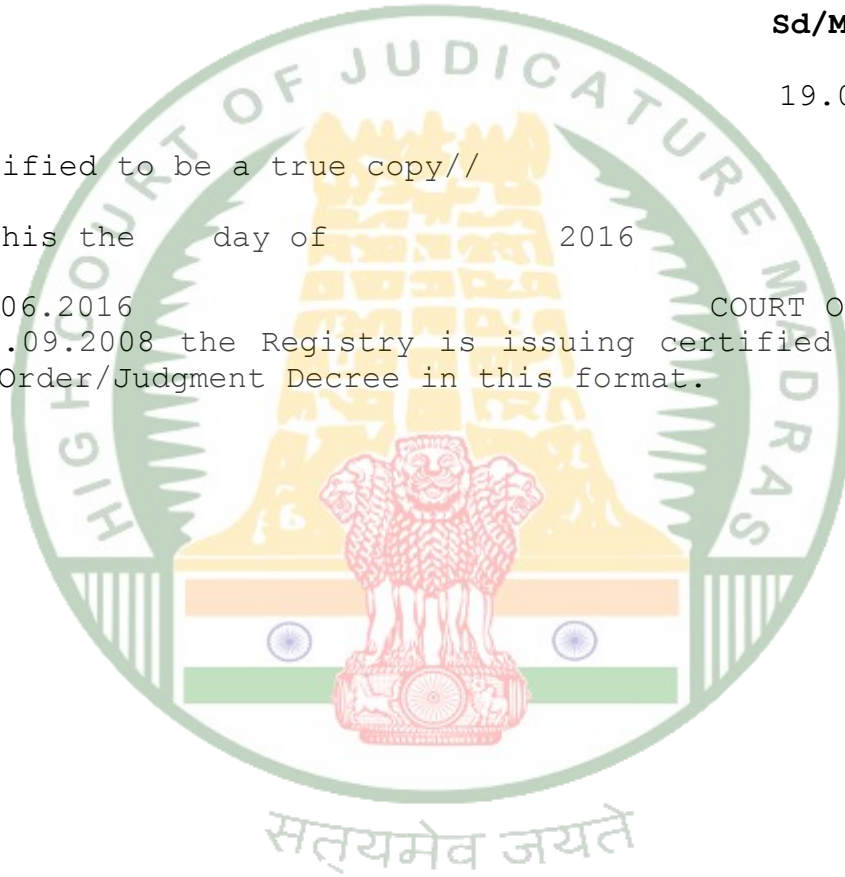
//Certified to be a true copy//

Dated this the day of 2016

S.s/06.06.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies
of the Order/Judgment Decree in this format.



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