



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P. (MD) No.1624 of 2016

and

C.M.P. (MD) No.7915 of 2016

MR.SURESH KUMAR SINGHVI .. PETITIONER/PETITIONER/
2nd DEFENDANT

Vs.

MR.U.S.M.SAMPATH, S/o.Manoharan
PROPRIETOR, NIRAIMATHI TRADERS, NO.75/5A,
ICA COLONY, RAMAMOORTHY ROAD ,
VIRUDHUNAGAR DIST. .. RESPONDENT/RESPONDENT/
PLAINTIFF

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set-aside the impugned order passed by the Additional District Judge Virudhunagar on 08.06.2016 by dismissing the I.A.No.5/2016 in O.S.No.4/2013 on the file of the Additional District Court, Virudhunagar and to strike off the petitioner as the defendant 2 in the plaint filed by respondent/plaintiff in the suit (O.S.No.4/2013).

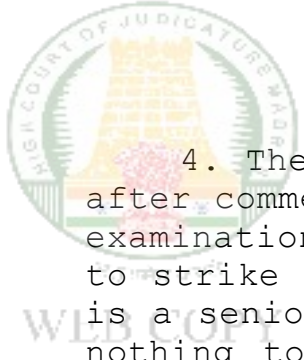
For Petitioner : Mr.V.Illanchezian

ORDER

This Revision arises out of the order passed by the Additional District Court, Virudhunagar, in I.A.No.5 of 2016 in O.S.No.4 of 2013, dated 08.06.2016.

2. Heard the learned counsel for the petitioner and perused the records.

3. The respondent filed the suit in O.S.No.4 of 2013 against the petitioner and four others for recovery of Rs.22,94,650/-. The case of the respondent is that he is doing business in Cardamom, Pepper, Coriander etc., at Virudhunagar. The first defendant is a proprietor of Aroma Seasoning Foods. The second defendant and the third defendant are General Manager and Executive Manager of the concerned respectively and they were jointly doing the business at Virudhunagar. They have purchased materials under 12 bills on various dates in the year 2012, but failed to pay the sale consideration.



4. The suit came to be filed in the month of January 2013 and after commencement of the trial, when the suit is posted for cross examination of P.W.1, an application in I.A.No.5 of 2016 was filed to strike of the name of the second defendant, contending that he is a senior citizen and suffering from Paralytic Attack and he is nothing to do with the business run by the first defendant. The Trial Court taking into account the averments made in the plaint, dismissed the application. Against that order, the present Revision is filed.

5. It is seen that the suit was filed for recovery of money and in the plaint, it is specifically stated that all the defendants are jointly doing the business activities under the name of "Aroma Seasoning Foods". At this juncture, the averments made in the plaint alone have to be looked into and the defence of the petitioner can be decided only after trial. Hence, I do not find any illegality or perversity in the order impugned in this Revision.

6. In fine, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Record)

/True copy/

Sub Assistant Registrar

To
The Additional District Judge,
Virudhunagar.

+1cc to M/s.U.Illanchazian, Advocate Sr.No.45918/16

pmu
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