

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1197 of 2017
& C.M.P.No.5693 of 2017

AIR AID Associates
Represented by its Proprietor
Peter Philip
No.30/164-B Govind Apartments
Anddipalli, October road
Ponnurani East
Vyttilai
Ernakulam, Kerala-682 019.

.. Petitioner

Vs.

M/S.Ashapuri Refrigerations
Represented by its Proprietor
Kanchan Kumar
carrying on business at Old No.30
New No.61, Armenian street
Chennai-104.

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 11.08.2016 made in I.A.No.16111 of 2015 in O.S.No.2169 of 2015 on the file of the learned IV Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.S.Kingston Jerold

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 11.08.2016 made in I.A.No.16111 of 2015 in O.S.No.2169 of 2015 on the file of the learned IV Assistant Judge, City Civil Court, Chennai.

2. The petitioner is the defendant and respondent is the plaintiff in O.S.No.2169 of 2015. The respondent filed the suit for recovery of money to the tune of Rs.4,23,785/- together with interest on Rs.3,78,385/-. The petitioner filed written statement. The petitioner also filed I.A.No.16111 of 2015 under Order VII Rule 11 of C.P.C. to reject the plaint on the ground that the Court at Chennai has no territorial jurisdiction, as entire cause of action has arisen at Kochi, Kerala, the petitioner is residing at Ernakulam and issued cheque of Lakshmi Vilas Bank, Kochi (Ernakulam Branch).

3. The respondent filed counter affidavit stating that the goods were supplied to the petitioner from Chennai office as per two invoices and the cheque issued by the petitioner was dishonoured by its banker namely, Kotak Mahindra Bank Limited,

Parrys Branch, Chennai-600 001 and only to drag on the proceedings, the petitioner has filed the present application.

4. The learned Judge considering the averments made in the affidavit, counter affidavit and materials available on record, dismissed the application holding that the respondent has stated in the plaint that the goods have supplied from Chennai office and cheque issued by the petitioner was dishonoured at Chennai.

5. Against the order of dismissal dated 11.08.2016 made in I.A.No.16111 of 2015, the present civil revision petition is filed by the petitioner/defendant.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. The grievance of the petitioner is that no cause of action has arisen within the jurisdiction of the Court at Chennai. The plaint does not disclose any cause of action. The said contentions are contrary to the facts. The respondents have stated in the plaint that the goods were supplied from Chennai office and cheque

issued by the petitioner was dishonoured by Kotak Mahindra Bank, Parrys, Chennai. In para-7 of the plaint, the respondents has stated that the cause of action has arisen at Chennai.

8. It is well settled that while deciding the application under Order VII Rule 11 of C.P.C., only the averments made in the plaint and documents filed along with the plaint are to be considered. The averments made in the affidavit filed in support of the application to reject the plaint and averments made in the written statement are not relevant to decide the issue. In view of the averments made in the plaint with regard to cause of action, the learned Judge has rightly dismissed the application by giving cogent and valid reasons. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 11.08.2016.

9. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

02.06.2017

Index : Yes/No

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To

IV Assistant Judge, City Civil Court, Chennai.

V.M.VELUMANI, J.

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