

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1482 of 2017
& C.M.P.No.6863 of 2017

1.M/s.Bhavani Barium Chemicals,
Rep. by its Managing Partner,
Tumuluri Umakantha Rao, Survey No.520/3
Kattalur Village, Vempally Mandal,
Kadapa District - 516329, Andhra Pradesh,
Presently residing at Block No.22, Flat No.402
IJM Malaysian Township, Rain Tree Park,
Kukatpally, KPH Board, Hyderabad - 500 072.

2.Tumuluri Umakantha Rao

3.Tumuluri Bhavani

.. Petitioners

Vs.

1.K.Dakshayani

2.O.Viswanadha Reddy

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 03.11.2006 in I.A.No.345 of 2016 in O.S.No.129 of 2016 on the file of the learned III Additional District Judge, Salem.

For Petitioner : Mr.R.Arumugam

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 03.11.2006 in I.A.No.345 of 2016 in O.S.No.129 of 2016 on the file of the learned III Additional District Judge, Salem.

2.The petitioners are the defendants 1 to 3, the first respondent is the plaintiff and the second respondent is the fourth defendant in O.S.No.129 of 2016. The suit is one for recovery of money. The petitioners/defendants 1 to 3 filed an application in I.A.No.345 of 2016 under Order 7 Rule 11 of CPC to reject the plaint on the ground that the Court has no territorial jurisdiction and the second respondent was not authorized as per the Joint Partnership Deed dated 19.08.2011.

3.The first respondent/plaintiff filed a counter affidavit and denied the various averments mentioned in the affidavit and opposed the said application. The learned trial Judge after considering the averments in the affidavit, counter affidavit and the fact that the Document No.38 and the letter dated 29.04.2013 was admitted by the petitioners and sent to the first respondent/plaintiff which was received by the first respondent at Salem

and as per the invoice, transaction had taken place at Salem, held that the Court has territorial jurisdiction at Salem to entertain and try the suit. The learned trial Judge further held that to decide the issue whether the second respondent is authorized or not, the petitioner has not filed any document to prove that the second respondent is not authorized and the issue can be decided only after appreciating the evidences let in by the parties. Against which, the present civil revision petition is preferred by the petitioners/defendants 1 to 3.

4. Heard the learned counsel for the petitioners and perused the materials available on record.

5. It is well settled that a plaint can be rejected on the application filed by the defendant under Order 7 Rule 11 of CPC, only if the plaint does not disclose any cause of action or barred by any law in force and abuse of process of law. While considering the said application, the only criteria is the averments in the plaint and the documents filed along with the plaint to be considered. The contention of the defendants and the documents relied on by them cannot be taken into account at this stage. In the present case, the first respondent/plaintiff has stated in the plaint that he has received

the letter at Salem. The learned trial Judge considering all these facts in proper perspective, has rightly dismissed the application. With regard to the contention of the petitioners that the letters were sent to the first respondent/plaintiff without any authority as per the Joint Partnership Deed, the same can be considered and decided only after appreciating the evidences let in by the parties. Therefore, I do not find any illegality or irregularity in the order passed by the trial Court warranting interference by this Court. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

21.04.2017

Index : Yes
cse

To

The III Additional District Court,
Salem.

V.M.VELUMANI, J.

cse

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