

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

C.R.P.(PD) No.2018 of 2017

and

C.M.P.No.9787 of 2017

1.M/s.Infra Heat Plants Pvt. Ltd.,
Plot No.115, Sidco Industrial Estate, Sipcot,
Ranipet – 632 403.

2.Mr.L.Manoharan, Managing Director.

3.Mrs.M.Jansi Rani, Director.

... Petitioners

Vs.

M/s. Sun Shine Leather Exports,
Rep. by its partners

1.N.Ramakrishnan

2.C.Elangovan

No.120 and 121, Sidco Industrial Estate,
Sipcot, Ranipet.

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 29.04.2017 passed in I.A.No.161 of 2016 in O.S.No.23 of 2016 by the II Additional District and Sessions Judge, Vellore @ Ranipet.

For Petitioner

: Mr.K.Nirmal Kumar

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ORDER

This Civil Revision Petition has been filed against the order rejecting the petition filed by the petitioners/defendants to reject the plaint. The suit is for specific performance to register the sale deed or in the alternative to return the advance amount. Defendants are the petitioners in the above Civil Revision Petition.

2.The contention of the petitioners/defendants is that the sale agreement relied on by the plaintiffs/respondents is not a valid one. According to him, the Managing Director is an incompetent authority to enter into an agreement on behalf of the first petitioner's company. For authorising the Director, a resolution shall be passed by the Board of Directors of the first petitioner's company. There is no resolution passed by the first petitioner's company. The respondents/plaintiffs have not produced the resolution passed by the Board of Directors of the first petitioner's company authority the second defendant/Managing Director to send the suit property.

3.The plaint is based on the unregistered sale agreement entered between the respondents/plaintiffs company. Hence the petitioners seek rejection of plaint. Whether the Managing Director is an authorised person or an unauthorised person to enter in to a contract is a matter for trial.

4.The respondents/plaintiffs have pleaded that the petitioner/plaintiff company has entered into an agreement with the Managing Director. The question as to whether the person entered into an agreement with the competent person, whether the agreement is a genuine or forged one; whether the person entered into the agreement in collusion with other persons with fraudulent intention or not, are again matters for evidence.

5.The learned counsel for the petitioners/defendants would submit that the respondents/plaintiffs are trying to dispose of the suit property by filing forged and fabricated unregistered sale agreement with the fraudulent intention. But the fact remains that the suit itself is for the relief of specific performance.

6.However, the present petition is filed to reject the plaint on the basis of the averments made in the written statement. As per the Judgment of the Supreme Court reported in **2015(1) M.W.N. (Civil) 427**, it is well settled that cause of action is a bundle of facts and the same has to culled out from the facts averred in the plaint and not as projected by defendants in the petition for rejection of plaint. The plaint cannot be rejected at threshold and the issues raised by the defendants can be decided only after trial.

7.Based on the above judgment, the trial Court has rejected the petition filed under Order VII Rule 11 of the Civil Procedure Code. As long as the averments in the plaint reveal the cause of action, claim to reject the plaint on the basis of averments made in the written statement cannot be sustained. The finding of the trial Court in dismissing the petition filed by the petitioners/defendants is sound and reasonable and is in accordance with law. In such circumstances, the Civil Revision Petition is liable to be dismissed.

8.Accordingly, the Civil Revision Petition is dismissed. The learned counsel for the petitioners would submit that the matter is posted for trial. If that be so, there shall be a direction to the trial

Court to complete the trial and dispose the suit as expeditiously as possible. No costs. Consequently, connected Miscellaneous Petition is closed.

20.07.2017

Speaking order/Non-speaking order
Index: Yes/No
Internet: Yes/No
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To

The II Additional District and Sessions Judge,
Vellore @ Ranipet,
Vellore District.



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M.GOVINDARAJ, J.

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