

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD) NO.2216 OF 2017
AND CMP NO.10550 OF 2017

- 1.Murudeshwar Ceramics Limited
Represented by its Managing Director
Registered Office at Murudeshwar Bhavan
Gokul Road, Hubli - 580 030.
Karnataka.
 - 2.The General Manager
Murudeshwar Ceramics Limited
281, Precision Plaza,
Anna Salai, Teynampet,
Chennai - 600 018.
 - 3.The Manager
Murudeshwar Ceramics Limited
Shakthi Murugan Complex,
Near AVR Circle, Bangalore Bye Pass Road,
Salem - 636 004.
- ... Petitioners

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Gowri Shankar Vs. ... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair order and decree dated 06.01.2017 in I.A.No.342 of 2016 in O.S.No.838 of 2015 on the file of the I Additional District Munsif, Salem.

For Petitioners : Mr.T.Nirmaleswar

ORDER

Aggrieved over the dismissal of the petition filed to reject the plaint under Order VII Rule 11 of the Code of Civil Procedure, the petitioners have come before this Court.

2. The submissions of the revision petitioners is two fold. Firstly, there is a bar on territorial jurisdiction and secondly, the suit is barred by limitation, in view of the statement made by the respondent/ plaintiff. In so far as the issue of territorial jurisdiction is concerned, it cannot be a ground under Order VII Rule 11 of the Code of Civil Procedure. Even otherwise, appointment order was issued to the respondent / plaintiff to report before the Senior Regional Manager - Sales at Chennai and he was further directed to report for duty at Salem. When the cause of action has arisen within the jurisdiction of Salem, the petitioners cannot claim that it is barred by territorial jurisdiction, in the event they approach the Court under Rule 14(2)(ii) of the Code of Civil Procedure.

3. In so far as the question of limitation is concerned, it is well settled law that the averments made in the plaint alone are germane and the plea taken by the petitioners / defendants in this

matter would be totally irrelevant at this stage.

4. It is also well settled that the plaint cannot be rejected on technical ground of limitation and further the question of limitation is a mixed questions of law and facts and therefore, the suit cannot be dismissed as barred by limitation, without proper pleadings and framing of issues and recording of evidence.

5. The Trial Court has clearly given a finding that the averments made in the plaint does not clearly project the case as one barred by limitation and the matter requires trial to prove the same. Therefore, the Trial Court has arrived at a reasonable conclusion and rightly dismissed the petition filed to reject the plaint.

6. For the foregoing reasons, the Civil Revision Petition is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

17.07.2017

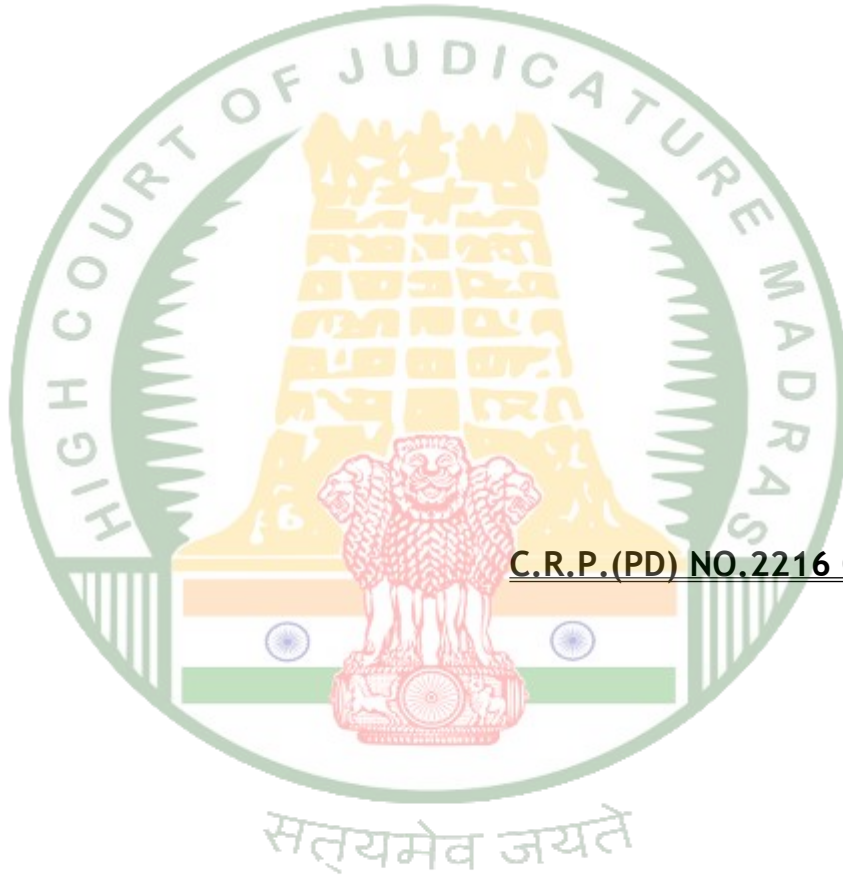
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Note : Issue order copy on 31.10.2017

M.GOVINDARAJ, J.

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To

The First Additional District Munsif
Salem.



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