

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M. DURAISWAMY

C.R.P.(PD).No.582 of 2017
and C.M.P.No.2980 of 2017

1.M/s.Shanmuga Stores
rep by its Proprietor R.A.Samy Trading Pvt. Ltd.,
No.20 & 21, Ranganathan Street,
T.Nagar, Chennai - 600 017.

2.R.A.Samy Trading Pvt. Ltd.,
rep by its Director Ramajeyam Arumugasamy,
Registered Office at No.21, Mangesh Street,
T.Nagar, Chennai - 600 017.

3.Ramajeyam Arumugasamy

... Petitioners

Vs.

M/s.K.S.Sarees,
Partnership Firm
rep by its Managing Partner
B.Selvaraj,
having Office at No.28, Old No.12,
B.N.Road, 2nd Cross Street,
T.Nagar, Chennai - 600 017.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India
against the petition and order dated 28.04.2016 passed in I.A.No.8153 of 2015
in O.S.No.3278 of 2015 on the file of the XVIII Assistant Judge, City Civil Court,

Chennai.

For Petitioners : Dr.A.N.Amarnath

For Respondent : Mr.L.Damodaran

ORDER

Challenging the docket order dated 28.04.2016 dismissing the petition filed by the revision petitioners to stay the Execution Petition in E.P.No.4889 of 2014 in O.S.No.2783 of 2013 on the file of the XVIII Assistant Judge, City Civil Court, Chennai, the above Civil Revision Petition has been filed by the plaintiffs in O.S.No.3278 of 2015.

2.The suit in O.S.No.2783 of 2013 was filed by the respondent for recovery of money. The suit was decreed, pursuant to which the respondent filed an Execution Petition in E.P.No.4889 of 2014. Thereafter, the revision petitioners filed an application to set aside the decree passed in O.S.No.2783 of 2013, which was also dismissed by the trial Court. Subsequently, the revision petitioners filed another suit in O.S.No.3278 of 2015 to set aside the judgment and decree passed in O.S.No.2783 of 2013. In the said suit, the respondent filed an application under Order 7 Rule 11 of the Civil Procedure Code to reject the plaint, which was allowed by the trial Court on 25.02.2014. After the rejection of the plaint in O.S.No.3278 of 2015, the revision petitioners filed an application in I.A.No.8153 of 2015 to stay all further proceedings in E.P.No.8449

of 2014 in O.S.No.2783 of 2013 pending disposal of the suit. When the suit itself was rejected, the prayer sought for by the revision petitioners cannot be granted, which was rightly dismissed by the trial Court.

3.I do not find any error or irregularity in the order passed by the trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed.

4.The learned counsel appearing for the petitioners submitted that the petitioners may be permitted to pay the suit claim amount in E.P.No.4889 of 2014 in installments.

5.Since the prayer sought for by the learned counsel for the petitioners is beyond the scope of the Civil Revision Petition, the prayer cannot be granted in this Civil Revision Petition. However, it is open to the petitioners to file appropriate application before the Execution Court and it is for the Execution Court to decide the same on merits and in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

va

M. DURAISWAMY,J.

va

To

The XVIII Assistant Judge,
City Civil Court,
Chennai.

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