

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **15.06.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) Nos.2964, 2965 of 2013

1.M/s.Sri Murugan Processes
rep. By its Partner,
Murugesan

2.Murugesan ... petitioner
versus

1. Sivanandam

2. Selvaraj ... Respondents

PRAYER: C.R.P.No.2964 of 2013 filed against the order dated 28.6.2013 in I.A.No.291 of 2013 in O.S.No.14 of 2010 on the file of 1st Additional District Munsif Court, Erode.

C.R.P.No.2965 of 2013 filed against the order dated 28.6.2013 in I.A.No.292 of 2013 in O.S.No.16 of 2010 on the file of 1st Additional District Munsif Court, Erode.

For petitioners :: Mr.G.Vasudevan

For respondents :: Mr.M.Guruprasad

COMMON ORDER

The petitioners, being defendants 1 and 2 in O.S.Nos.14 of 2010 and 16 of 2010 on the file of I Additional District Munsif, Erode, filed application in I.A.Nos.291 and 292 of 2013 respectively to receive additional written statement. The applications were dismissed by the learned Trial Judge taking into account the objection raised by the respondents. The individual

orders are under challenge in these civil revision petitions.

2. I have heard the learned counsel for the petitioners. I have also heard the learned counsel for the respondents.

3. The first respondent filed the suit in O.S.Nos.14 and 16 of 2010 before the District Munsif, Erode, for recovery of money. The suit was contested by the petitioners by filing written statement.

4. Subsequent to the commencement of trial, the petitioners filed interlocutory applications before the Trial Court in I.A.No.291 and 292 of 2013 for receiving additional written statement. According to the petitioners, the suit, as framed, is not maintainable.

5. The Trial Court appears to have conducted a roving enquiry with respect to the merits of the claim made in the additional written statement and dismissed the applications.

6. While considering the application for receiving additional written statement, it was not permissible for the Court to conduct a detailed analysis with respect to the merits of the case. The Court was expected to consider as to whether the petitioner has made out a case for receiving additional written statement. In the subject case, the Trial Court virtually

passed an order on the merits of the matter.

7. The affidavit filed in support of the individual applications indicate that the petitioners wanted to plead certain details with regard to the composition of the firm. The learned Trial Judge was therefore not correct in dismissing the applications. I am therefore of the view that the impugned orders are liable to be set aside.

8. In the result, the impugned orders are set aside. It is open to the respondents to file further pleadings, in case liberty is given, in view of the additional written statement filed by the petitioners.

9. The civil revision petitions are allowed as indicated above. No costs. M.P.Nos.1 and 1 of 2013 are closed.

15.06.2017

Index:Yes/no
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To

The 1st Additional District Munsif Court, Erode.

K.K.SASIDHARAN, J.

(tar)

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