

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4512 of 2010
& C.M.P.No.1 of 2010

R.Poosappan

.. Petitioner

Vs.

S.M.P.Textiles Mills Pvt., Ltd., Erode
Rep. by its Managing Director
S.P.Ganapathi
Administrative Officer
65, Ramasamy Lane
Erode-1.

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair order and decretal order dated 16.11.2010 made in I.A.No.1298 of 2010 in O.S.No.439 of 2001 on the file of the Principal Sub Court, Erode.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.C.S.Saravanan
for sole respondent

ORDER

This Civil Revision Petition has been filed against the fair order

and decretal order dated 16.11.2010 made in I.A.No.1298 of 2010 in O.S.No.439 of 2001 on the file of the Principal Sub Court, Erode.

2. The petitioner is the first defendant and the respondent is the plaintiff in O.S.No.439 of 2001. The respondent filed the suit for recovery of money. The petitioner and second defendant filed written statement on 07.11.2001 and 30.12.2001 respectively and are contesting the suit. Trial commenced. The respondent let in evidence and closed their side. When the suit was posted for evidence on behalf of the petitioner, the respondent filed I.A.No.1298 of 2010 to issue summons under Order 16 Rule 7A(1) C.P.C to the Assistant Commercial Tax Officer with regard to the Form A filed by the respondent. Only from Form A it can be seen that whether respondent supplied the goods to the petitioner, whether any delivery note was raised and who has filed the delivery note.

3. The respondent filed counter affidavit and opposed the said application on the ground that Form A will not contain details as mentioned by the petitioner and only to drag on the proceedings,

petitioner has come out with the present application.

4. The learned Judge considering the fact that the suit for recovery of money filed in the year 2001 and petitioner filed number of applications challenging the order passed by the Trial Court and lastly this Court directed the learned Judge to dispose suit within three months from the date of receipt of a copy of that order and also took into consideration of the fact that in the earlier application filed by the petitioner for direction to the official to produce Form A, the officials appeared and stated that form A cannot be produced, dismissed the application as not maintainable.

5. Against the order of dismissal dated 16.11.2010, the present civil revision petition is filed by the petitioner.

6. Heard both sides and perused the materials available on record.

7. The grievance of the petitioner is that the learned Judge has decided the issue in the suit itself and dismissal of earlier

application will not be a reason for dismissing the present application. The said contention of the petitioner is without any merits. The learned Judge taking note of the fact that the suit is for recovery of money the petitioner dragged on the proceedings for more than 10 years and dismissed the application.

8. From the materials available on record, it is seen that the petitioner filed earlier application for direction to produce Form A and Officials of Central Excise Department appeared before the Court and stated that Form A cannot be produced before the Court. After, dismissal of earlier application the petitioner has filed present application for the very same relief in a different manner. The petitioner is not entitled to file one after another application for the very same relief.

9. Considering the nature of the relief in the suit and pendency of the same for more than sixteen years and earlier direction by this Court to dispose the suit within three months from the date of receipt of a copy of this order, the Civil Revision Petition is dismissed as default of merits holding that there is no illegality or

irregularity warranting interference by this Court with the order of the learned trial Judge, dated 16.11.2010.

10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.07.2017

Index : Yes
dm/gsa



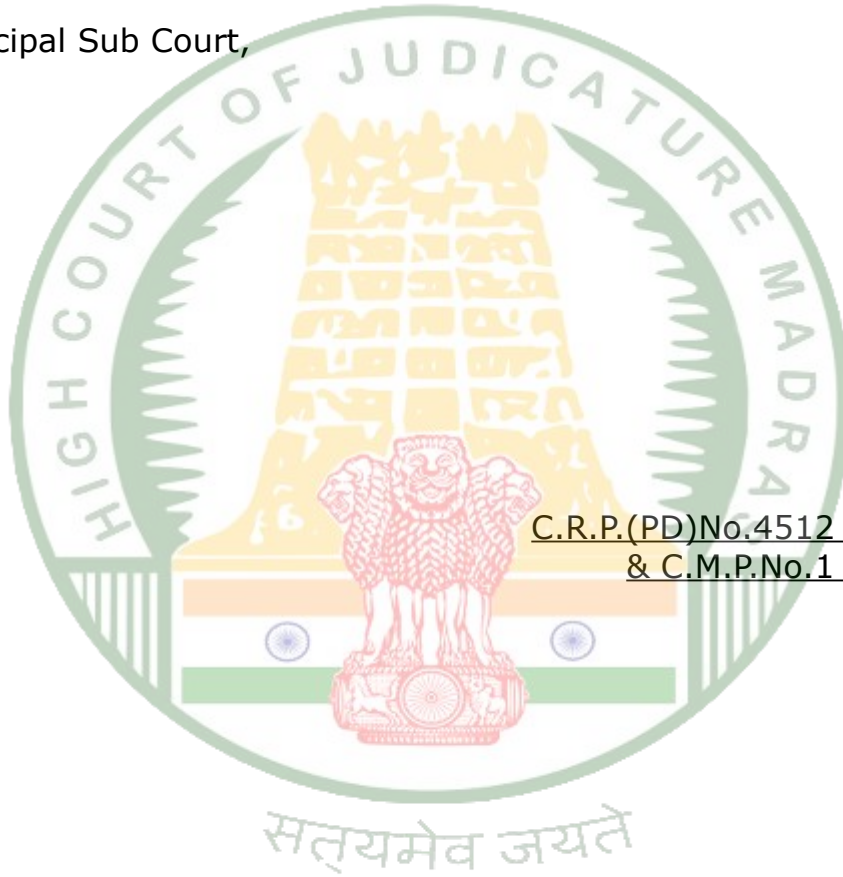
WEB COPY

V.M.VELUMANI, J.

dm/gsa

To

The Principal Sub Court,
Erode.



C.R.P.(PD)No.4512 of 2010
& C.M.P.No.1 of 2010

WEB COPY

07.07.2017