

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2018

CORAM : THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

S.A.No.511 of 2008
and MP.No.1 of 2008

Bharat Sanchar Nigam Limited
Chennai Telephone
Rep. by its Assistant General Manager
O/o. Deputy General Manager (L.D.)
29/70, Ritherdon Road
Vepery, Chennai - 7. Appellant/Respondent/Plaintiff

Vs

Addison & Co. Ltd.,
Office at 803, Anna Salai,
Chennai - 2. Respondent/Appellant/Defendant

Prayer : Second Appeal filed under Section 100 of CPC against the judgment and decree dated 21.09.2007 made in A.S.No.438 of 2006 on the file of the I Additional Judge, City Civil Court, Chennai, reversing the judgment and decree dated 31.01.2006 made in O.S.No.1425 of 2005 on the file of the XIV Assistant Judge, City Civil Court, Chennai.

For Appellant : Mr.S.Udayakumar

For Respondent : Mr.B.Chandrasekaran
for M/s.R.Subramanyam & Associates

JUDGMENT

This appeal is preferred by the plaintiff, challenging the decree dismissing the suit for arrears of bill amount due to it. Parties would be referred to by their rank before the trial Court.

2. The brief facts are : The defendant was provided with an internet circuit connection by the Department of Telecommunications, Government of India. On 09.03.2000, a bill for Rs.80,686/- was raised on the defendant and the same was not paid. Hence, on 14.12.2000, the internet circuit connection provided to the defendant was disconnected. Thereafter, on 01.03.2005, the suit in O.S.No.1425 of 2005 on the file of the XIV Assistant, City Civil Court, Chennai was laid for the recovery of bill amount. The primary contention of the

defendant is that the suit is barred by limitation.

3. On 31.01.2006, the trial Court has decreed the suit. Aggrieved by the said decree, the defendant has preferred an appeal before the first Appellate Court in A.S.No.438 of 2006, wherein, the first Appellate Court has reversed the decree of the trial Court and held that the claim of the plaintiff is barred by limitation. Challenging the said decree, the plaintiff is before this Court in this appeal.

4. This appeal is admitted and the substantial question of law that arises for consideration is "Whether the appellant came under the purview of Article 112 of Limitation Act?"

5. This Court heard the submissions of learned counsel appearing on both sides. According to the plaintiff, inasmuch as the bill amount was originally due to the Department of Telecommunications, Article 112 of the Limitation Act, 1963 alone is applicable and the suit is filed well within the time. On the contrary, the defendant has taken up a contention that inasmuch as the entire telephone connection operation was converted into a Company with effect from 01.10.2000, Article 112 of the Limitation Act, will not apply and the limitation for instituting a suit would only be three years.

6. The issue now raised is not res integra as both the Hon'ble Supreme Court and this Court Vide authorities in BSNL Vs. Pawar Kumar Gupta [(2016) 1 SCC 363] and Bharat Sanchar Nigam Limited (BSNL) Vs. Wipro Net Ltd., [2011 (5) CTC 854] have held that Article 112 of the Limitation Act will not have any application, and a suit has to be laid within three years.

7. In view of the stated position of law in the above authorities, nothing survives in this appeal. Accordingly, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते
s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

ds

To:

1. The I Additional Judge, City Civil Court, Chennai.

2. The XIV Assistant Judge, City Civil Court, Chennai.

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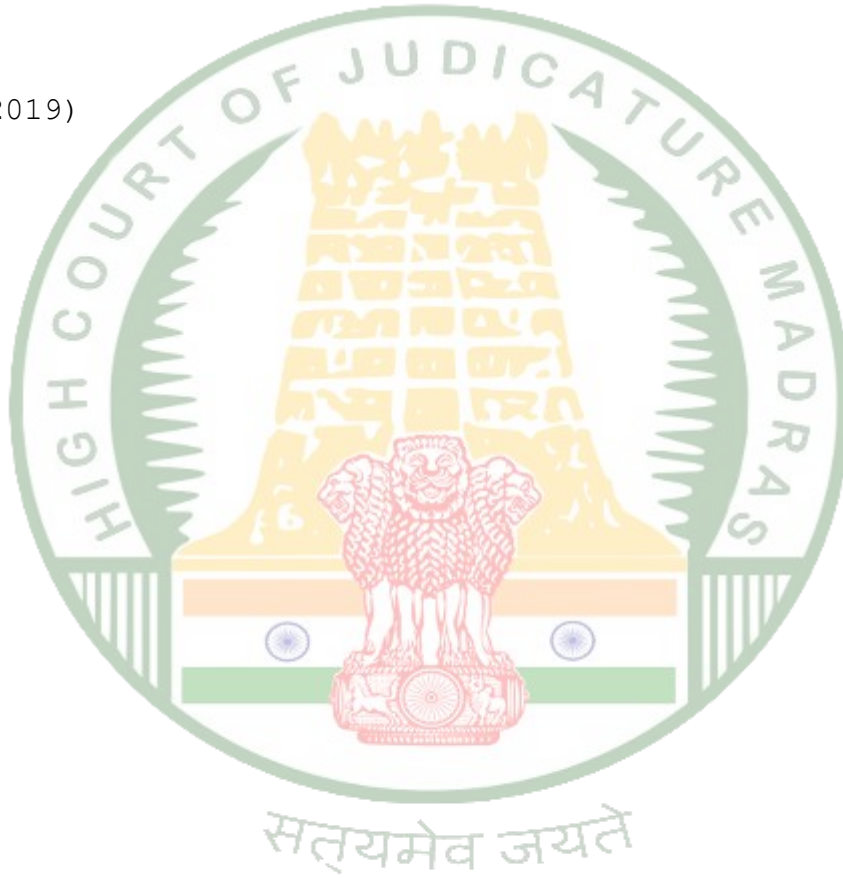
The Section Officer, ER Section, High Court, Madras.

+1 CC to Mr.S.Udayakumar, Advocate sr 81711.

+1 CC to Mr.R. Subramanian Associates sr 81146.

S.A.No.511 of 2008

SSI (CO)
SP (07/02/2019)



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