IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.04.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD).No.1358 of 2018 and

C.M.P.No.7156 of 2018

T.Vijayakumar ... Petitioner

Vs.

1. Sree Vijaya Timber Corporation
   Rep. by its Managing Partner
   T.Subba Rao

2.Sree Padmaja Saw Mills,
   Rep. by its Managing Partner
   T.Subba Rao

3. T.Subba Rao

4. V.Venkateshwara Rao

5. V.Krishna Rao

6. U.Rambabu

7. C.H.Parthasarathy

8. Raghu Chakravarthy

9. V.Kallvara Prasad

10. T.Srinivasa Rao

11. U.Srinivasa Rao

12. C.H.Easwar ... Respondents

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Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 25.01.2018 passed by the learned XVI Additional Judge, City Civil Court, Chennai in I.A.No.327 of 2017 in O.S.No.5568 of 2017.

For Petitioner : Mr.M.R.Sheik Abdul Rahim

ORDER

The relief sought for in this revision is to set aside the fair and decreetal order dated 25.01.2018 made in I.A.No.327 of 2017 in O.S.No.5568 of 2017 passed by the learned XVI Additional Judge, City Civil Court, Chennai.

2. The Revision petitioner is the plaintiff, filed the suit in O.S.No.5568 of 2017 under Order XXXVII Rule 1 and 2 C.P.C., against the respondents for recovery of a sum of Rs.10,80,000/- with interest at 24% p.a. After issuance of summons, the defendants 1 to 3 filed the application in I.A.No.327 of 2017 to grant leave to the defendant to defend the suit.

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3. After hearing the arguments of both the sides the trial Court allowed the I.A.No.327 of 2017 in O.S.No.5568 of 2017.

4. Aggrieved against the order dated 25.01.2018 made in I.A.No.327 of 2017, passed by the trial Court, the petitioner/plaintiff prefers the present

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Revision petition.

5. According to the learned counsel for the petitioner, the Court cannot decide the payment regarding service tax and other taxes at this stage. Therefore, the order passed by the Trial Court without any substance and prays to set aside the order made in I.A.No.327 of 2017.

6. Heard the learned counsel for the petitioner and perused the available records.

7. It is not in dispute that the petitioner is the landlord and the respondents are the tenants. The petitioner/plaintiff is paying service tax on behalf of the defendants to the Income Tax department on the rent payable by the respondents/defendants. Therefore, the respondents/defendants are liable to pay the service tax.

8. The trial Court found that there is a dispute relating to payment of the Service tax. The said issue involved in the suit is triable issue, the same can be decided only after the trial.

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P.VELMURUGAN, J.,

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9. In view of the above discussions, this Court does not find any infirmity or illegality in the order passed by the trial court in I.A.No.327 of 2017 in O.S.No.5568 of 2017 dated 12.01.2018 and there is no merits in the revision filed by the petitioner/ plaintiff.

10. In view of the above observations, this revision petition is dismissed. However, since the suit is filed under Order XXXVII in summery suit, The Trial Court is directed to dispose the suit within a period of six months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous petition is closed. No Costs.

12.04.2018

Index:Yes/No

Speaking order / Non speaking order

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To

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

C.R.P.(PD).No.1358 of 2018
& C.M.P.No.7156 of 2018

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