



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P.(MD) No.511 of 2011
and M.P.(MD) No. 2 of 2011

Koppu Guranna

... Petitioner/Defendant

Vs.

M/s.Rose Matches Pvt. Ltd.,
Kovilpatti,
Through its Director,
R.Rengasamy

... Respondent/Plaintiff

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 27.01.2011 passed in I.A.No.774 of 2010 in O.S.No.159 of 2005 on the file of the District Munsif Court, Kovilpatti.

For Petitioner	: Mrs.Maria Vinola
For Respondent	: No appearance

O R D E R

The Civil Revision Petition has been preferred against the order dated 27.01.2011 passed in I.A.No.774 of 2010 in O.S.No.159 of 2005 on the file of the District Munsif Court, Kovilpatti.

2. The brief facts are as follows:

2.i) The suit in O.S.No.159 of 2005 was filed by the plaintiff for a sum of Rs.60,167/-.The defendant is the matches buyer and retail seller. He is doing the business in the name and style of M/s.Koppu Guranna Traders in Vizianagaram, Andhra Pradesh. According to the defendant's letter dated 17.02.2003, the plaintiff has despatched 450 bundles of matches under the invoice No.1193 dated 20.02.2003 to the value of Rs.60,045/-. As per the promise made by the defendant, he had to pay invoice amount on receipt of goods to the plaintiff. Otherwise, the defendant had to pay an interest of 18% p.a for the outstanding amount to the plaintiff. After repeated demands, the defendant has not paid the said amount. The plaintiff sent a legal notice to the defendant demanding the said due amount of Rs.60,167/- towards the principle amount along with interest. Even thereafter, the defendant has not paid the said due amount to the plaintiff and hence, the plaintiff filed the suit in O.S.No.159 of 2005 before the learned District Munsif, Kovilpatti.



2.ii) The defendant has filed a written statement questioning the jurisdiction point on 16.10.2005.

2.iii) The trial court after perusing the materials placed on record, dismissed the said suit on 28.11.2008. Thereafter, the defendant filed an Interlocutory Application in I.A.No.774 of 2010 in O.S.No.159 of 2005 to file an additional written statement on 09.11.2010. The trial court by its order dated 27.01.2011, dismissed the said application stating that the details mentioned in the additional written statement were already stated in the written statement and therefore, there is no need to file the additional written statement.

3. The learned counsel appearing for the petitioner/ defendant would submit that the court below has not dealt with the matter in respect of jurisdiction and maintainability of the suit in detail and the court has failed to see that by allowing the said application, no prejudice would be caused to the plaintiff.

4. The learned counsel for the petitioner/defendant would further submit that aggrieved by the dismissal of the suit, the plaintiff filed an Appeal Suit in A.S.No.23 of 2009 before the learned Subordinate Judge, Koilpatti and the Subordinate Judge, Kovilpatti, has dismissed the Appeal Suit and remanded the matter back to the trial court. The learned counsel for the petitioner has produced the judgment and decree passed in A.S.No.23 of 2009. This Court has perused the same.

5. The learned Subordinate Judge, Koilpatti, observed that certain issues, which are necessary to arrive at a proper decision have not been framed by the trial court and therefore, the learned Subordinate Judge has remanded back the matter to the trial court.

6. On perusing the said Judgement, this Court is of view that there is no error in the judgment of the lower Appellate Court. Since the matter has already been remanded back to the trial court, the trial court is directed to deal with the matter after framing necessary issues and thereafter, dispose of the same in accordance with law, within a period of six months from the date of receipt of a copy of this order.

7. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition in M.P.(MD) No. 2 of 2011 is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/



1. The District Munsif, Kovilpatti.
2. The Subordinate Judge, Kovilpatti.
3. The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

CM

TE/SV/SAR-3 : 14/06/2018 : 3P/5C

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