

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24 / 08 / 2020

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

C.S.NO.483 OF 2013

M/s.Benaka Minerals Trading (P) Ltd.,
No.1/3, Appavoo Apartments,
Venus Colony 2nd Street,
Alwarpet, Chennai – 600 018.
Rep. By its Authorized Signatory and CEO
M.S.Ravishankar

.. Plaintiff

Versus

W.V.Rajendra Prasad
Sole Proprietor
M/s.R.S.Exports
“WVN” Manor, II Floor,
62/138, Santhome High Road,
Chennai – 600 004.

.. Defendant

PRAYER: Plaint filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 CPC with a prayer to pass a judgment and decree against the defendant (a) for a sum of Rs.56,15,730/- together with interest @ 10% per annum from the date of this plaint till the date of realization in full; (b) for the cost of the suit.

For Plaintiff : Mr.S.Vasudevan
For Defendant : Mr.M.V.Rajendra Prasad

J U D G M E N T

The plaintiff filed the suit for recovery of money for a sum of Rs.56,15,730/- together with interest @ 10% per annum from the date of plaint till the date of realisation.

2. The matter was posted before the Undefended Board and the defendant was set *exparte* on 25.10.2018.

3. The plaintiff is an Importer, Exporter and Trader of Coal, Iron Ore and Limestone. The defendant is also a Trader of Coal and Iron Ore. At the request of the defendant, plaintiff sold and delivered 11,478.62 MTS of Coal between May 2012 and September 2012 for the total value of Rs.4,43,41,765/- . The purchase orders were marked as Exs.P2, 11, 39 and 40. The invoices with regard to purchase were marked as Exs.P3 to 10, 12 to 14, 16 to 19 and 21 to P28. The defendant has made part payments and the

plaintiff sent reminders to the defendant, which were marked as Ex.P36. The post-dated cheques given by the defendant were returned by the plaintiff through a letter dated 13.03.2013 including 31 cheques as the defendant did not have sufficient balance in his account. The said letter dated 13.03.2013 is marked as Ex.P29.

4. It appears that the defendant's accounts were frozen and the Indian Overseas Bank, Coimbatore Main Branch withdrew and returned the Letter of Credit to the defendant. The letter dated 10.04.2013 addressed to the defendant by the UCO Bank was marked as Ex.P30. The defendant has sent a stock position vide letter dated 20.04.2013 which is marked as Ex.P32. After setting off the Coal, the balance amount was computed as Rs.53,27,175/-. The acknowledgment of liability through e-mails by defendant to the plaintiff is marked as Ex.P37 series.

5. Since the defendant failed to pay money inspite of repeated of demands made by the plaintiff, and in view of the acknowledgment of liability, vide Ex.P37 series, this Court is of the considered opinion that the

plaintiff has proved his claim. The suit is decreed in favour of the plaintiff and the plaintiff is entitled to recover a sum of Rs.56,15,730/- together with interest at the rate of 10% per annum from the date of plaint till the date of decree and the plaintiff is further entitled to interest @ 6% per annum from the date of decree till the date of realization.

6. Accordingly, the suit is decreed in the above terms. No costs.

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Index : Yes/No
Internet : Yes/No
TK

LIST OF WITNESSES EXAMINED

P.W.1 – Mr.A.Anthony (Exparte evidence)

WEB COPY

LIST OF EXHIBITS MARKED

<i>SL. No.</i>		<i>Description of Documents</i>	<i>Date</i>
1	Ex.P1	Original Authorisation letter	17/7/2018
2	Ex.P2	Copy of Purchase Order from defendant to plaintiff	22/5/2012
3	Ex.P3	Copy of Invoice from plaintiff to defendant	26/5/2012
4	Ex.P4	Copy of Invoice from plaintiff to defendant	29/5/2012
5	Ex.P5	Copy of Invoice from plaintiff to defendant	30/5/2012
6	Ex.P6	Copy of Invoice from plaintiff to defendant	31/5/2012
7	Ex.P7	Copy of Invoice from plaintiff to defendant	31/5/2012
8	Ex.P8	Copy of Invoice from plaintiff to defendant	4/6/2012
9	Ex.P9	Copy of Invoice from plaintiff to defendant	5/6/2012
10	Ex.P10	Copy of Invoice from plaintiff to defendant	6/6/2012
11	Ex.P11	Copy of Purchase Order from plaintiff to defendant	6/6/2012
12	Ex.P12	Copy of Invoice from plaintiff to defendant	9/6/2012
13	Ex.P13	Copy of Invoice from plaintiff to defendant	11/6/2012
14	Ex.P14	Copy of Invoice from plaintiff to defendant	13/6/2012
15	Ex.P15	E-mail copy of Purchase Order from defendant to plaintiff	12/7/2012
16	Ex.P16	Copy of Invoice from plaintiff to defendant	24/7/2012
17	Ex.P17	Copy of Invoice from plaintiff to defendant	31/8/2012
18	Ex.P18	Copy of Invoice from plaintiff to defendant	4/9/2012
19	Ex.P19	Copy of Invoice from plaintiff to defendant	6/9/2012
20	Ex.P20	Office copy of Letter from plaintiff to defendant enclosing cheque	6/9/2012
21	Ex.P21	Copy of Invoice from plaintiff to defendant	10/9/2012
22	Ex.P22	Copy of Invoice from plaintiff to defendant	11/9/2012
23	Ex.P23	Copy of Invoice from plaintiff to defendant	13/9/2012

SL. No.		Description of Documents	Date
24	Ex.P24	Copy of Invoice from plaintiff to defendant	14/9/2012
25	Ex.P25	Copy of Invoice from plaintiff to defendant	17/9/2012
26	Ex.P26	Copy of Invoice from plaintiff to defendant	20/9/2012
27	Ex.P27	Copy of Invoice from plaintiff to defendant	24/9/2012
28	Ex.P28	Copy of Invoice from plaintiff to defendant	29/9/2012
29	Ex.P29	Copy of letter from plaintiff to defendant	13/3/2013
30	Ex.P30	Photo copy of letter from UCO Bank to defendant	10/4/2013
31	Ex.P31	Letter of demand enclosing confirmation of balance as on 31.3.2013.	15/4/2013
32	Ex.P32	Copy of letter from defendant to plaintiff	20/4/2013
33	Ex.P33	Original Board Resolution of plaintiff	18/6/2013
34	Ex.P34	Copy of legal notice from plaintiff's counsel to defendant with Acknowledgement card.	25/6/2013
35	Ex.P35	Original Reply from defendant's counsel to plaintiff's counsel	9/7/2013
36	Ex.P36 Series (31 Nos.)	E-mail of Letter of demand from the plaintiff to defendant	From 31/8/2013 to 8/6/2013
37	Ex.P37 Series (16 Nos.)	E-mails Acknowledgement of liability from defendant to plaintiff	From 16/7/2012 to 25/6/2013
38	Ex.P38 Series (63Nos)	E-mail Negotiations from 3/9/2012 to 8/7/2013 between plaintiff and defendant	---
39	Ex.P39	E-mail enclosing copy of purchase order from defendant to plaintiff	24/7/2012
40	Ex.P40	E-mail copy of Purchase order	7/9/2012
41	Ex.P41	65-B Certificate of Indian Evidence Act, 1872 for Ex.P36 to Ex.P40	---

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