

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2020

CORAM

THE HONOURABLE MR. JUSTICE T. RAJA

Tr.C.M.P. No. 487 of 2020

&

C.M.P. No. 12089 of 2020

M/s. Rajesh Hardware,
rep. by its Propx: Gayathri,
D.No. 673, Madurai Road,
Theni. ..Petitioner/Defendant

Vs.

M/s. Agni Steels (P) Limited,
A company incorporated under the
Companies Act and rep. by its
General Manager (Finance and Accounts)
Mr.V. Srinivasan,
No.58/1, Avvaiyar Street,
Teachers Colony, Erode 638 009. ...Respondent/Plaintiff

Prayer: Petition to withdraw the suit in O.S. No. 98 of 2019
pending on the file of learned I Additional District Judge,
Erode and transfer the same to learned District Judge, Theni.

For Petitioner : Mr.T.N. Rajeshwaran

O R D E R

This transfer C.M.P. has been filed by the defendant M/s. Rajesh Hardware seeking transfer of the pending suit in O.S. No. 98 of 2019 filed for recovery of money on the file of District Court, Erode to the file of District Court, Theni.

2. The learned counsel appearing for the petitioner would submit that the respondent herein has filed the suit for the relief of recovery of a sum of Rs.11,84,256/- with subsequent interest @ 9% per annum from the date of suit till the passing of decree and thereafter @ 6% per annum from the date of decree till the date of realisation along with costs. The said suit is pending before the learned I Additional District Judge, Erode wherein the petitioner as defendant has entered appearance. Later on, the petitioner has filed a written statement denying

the territorial jurisdiction of the I Additional District Court, Erode, on the ground that cause of action has not arisen within the jurisdiction of the said Court. The learned counsel for the petitioner further submits that the plaintiff/respondent and the defendant/petitioner were having business contacts and the plaintiff used to supply iron materials to the defendant/petitioner on credit basis. Subsequently, the defendant/petitioner used to pay the cost of the materials to the plaintiff/respondent in a prompt manner. In the course of business, the plaintiff/respondent is alleged to have supplied TMT iron bars and rods at Ingur, Perundurai Taluk, Erode District to the defendant/petitioner herein on credit basis on 19.08.2017. According to the learned counsel for the defendant/petitioner, out of the total amount due, the defendant/petitioner had paid a sum of Rs.10,57,500/- on various dates. Since the receipt of materials and money had taken place at Theni, the suit for recovery of money filed before the I Additional District Court, Erode, is not maintainable.

3. However, this Court finds it difficult to accept the said contention of the learned counsel for the petitioner. For proper appreciation of the issue raised in this transfer petition, it would be appropriate to extract hereunder Section 20 CPC along with explanation, which reads thus:

"Section 20: Other suits to be instituted where defendants reside or cause of action arises

Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction

(a) the defendant, or each of the defendants where there are more than one, at the time of commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally works for gain, as aforesaid, acquiesce in such institution; or

(c) The cause of action, wholly or in part, arises.

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²[Explanation]: A corporation shall be deemed to carry

on business at its sole or principal office in 3 [India] or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place."

Furthermore, the illustration given under Section 20CPC is also relevant to be extracted and it is as follows:

"(a) A is a tradesman in Calcutta, B carries on business in Delhi. B, by his agent in Calcutta, buys goods of A and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business. "

4. As the plaintiff/respondent has pleaded in the plaint that the defendant/petitioner had purchased TMT iron bars and rods on credit basis on 19.08.2017 from the plaintiff, a manufacturer of Steel and allied products, having its plant at Ingur, Perundurai Taluk, Erode District for Rs.4,98,493/- and after payment of a sum of Rs.3,06,962.25p, a sum of Rs.1,91,540.75p is due to the plaintiff from the defendant, the suit is maintainable at Erode as part of cause of action has arisen in Erode. Therefore, this Court is unable to accept the petitioner's plea. Accordingly, the transfer petition fails and the same is dismissed. No costs. Connected C.M.P. is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Nv

To

The I Addl. District Court,
Erode.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

Tr.C.M.P. No. 487 of 2020

MG(CO)
GN(11/12/2020)