

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
Civil Revision Petition (PD) No.4401 of 2014

M/s.Naveens,
Rep. by Abdul Rahim,
Govt. Approved Contractors,
Regd. Small Scale Industry Unit,
No.2, Bazaar Street,
Royapuram,
Chennai 600 001.

... Petitioner

VS.

M/s.Sun Trading,
represented by Selvakumar,
No.2/PC-5, S.S.A. Complex,
1st Floor, Mugappair West,
Chennai 600 037.

...Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 30.04.2014 passed by the XVII Assistant City Civil Court, Chennai in I.A.No.2197 of 2014 in O.S.No.5240 of 2013.

For Petitioner : Mr.G.Ilamurugu

For Respondent : No appearance

ORDER

The present Civil Revision Petition is filed against the fair and decreetal order dated 30.04.2014 passed by the XVII Assistant City Civil Court, Chennai in I.A.No.2197 of 2014 in O.S.No.5240 of 2013, to amend the prayer in terms of Order VI Rule 17 C.P.C.

2. Heard the learned counsel for the Petitioner. Though notice has been sent to the Respondent and paper publication being effected, none appeared on behalf of the Respondent.

3. The original Plaintiff has filed the Suit for decree and judgment not to misuse the blank security cheques given to the Defendant. The case of the Plaintiff before the Trial Court was that, on 19.09.2013, after the filing of the above said Suit, the Defendant had materially altered the blank security cheques without any consideration and preferred a complaint against the Plaintiff and an F.I.R. was registered on 22.09.2013 under Section 420 I.P.C.

4. It is the case of the Petitioner/Defendant that, the Respondent/Plaintiff, in order to wreck vengeance, had filed the Suit seeking bare injunction. According to the Petitioner/Defendant, the said relief cannot be granted in terms of Section 4(1)(b) of the Specific Relief Act, 1963, as the Petitioner/Defendant had later sought to amend the prayer as one of declaration.

5. Even assuming for the sake of argument that, declaration is permissible, Court Fee should have been paid in terms of Section 24 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. However, the same has not been done. When the character of the Suit itself is going to be changed, whether in the pleadings or in the prayer, the Lower Court ought

not to have granted the relief, as the Suit itself is not maintainable, when it is hit by Section 4(1)(b) of the Specific Relief Act, 1963.

6. The Trial Court has considered with regard to valuation of Suit and payment of Court fee with regard to immovable property in view of the provisions of Section 25(a) and 25(d) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. In the case on hand, the property is an immovable one, and court fee ought to have been paid in terms of Section 24 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. Whether the Trial Court will grant time to pay the difference in Court fee, is the issue for consideration.

7. In the light of Section 4(1)(b) of the Specific Relief Act, 1963, no injunction can be granted, if the Respondent/Plaintiff is trying to change the character of the Suit, and the same is not permissible. Hence, the order dated 30.04.2014 passed by the XVII Assistant City Civil Court, Chennai in I.A.No.2197 of 2014 in O.S.No.5240 of 2013, ordering amendment of the prayer of the Suit, is bad, and the same is set aside.

8. In fine, **the Civil Revision Petition is allowed.** No costs. Consequently, connected M.P.No.1 of 2014 is closed.

05.03.2020

Index : Yes/No
(aeb)

To : The XVII Assistant City Civil Court, Chennai.

S.VAIDYANATHAN,J.

(aeb)



Order in
C.R.P.(PD) No.4401 of 2014

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