

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.3584 of 2018 and
CMP No.20070 of 2018

1. Latha Balasubramanian
2. M/s..Photon Infotech Private Limited,
represented by its Director,
Mrs.Latha Balasubramanian
Having Registered Office at No.7,
7th cross street, Sasthri Nagar,
Adyar, Chennai – 600 020. ... Petitioners

Vs.

Dinesh Poonan ... Respondent

Prayer: The Civil Revision petition filed under Article 227 of the Constitution of India, against the order dated 03.07.218 passed in I.A.No.14218 of 2016 in O.S.No.2997 of 2016 on the file of the 7th Assistant City Civil Court, Chennai.

For Petitioners : Mr.M.Devaraj

For Respondent : Mr.S.Shayam Kumar

ORDER

This revision is at the instance of the 2nd defendant in
O.S.No.2997 of 2016.

2. The suit is laid by the plaintiff who was an employee of the 1st defendant, which is a private limited company, seeking payment of his gratuity, other statutory benefits and one month salary. The 2nd defendant is shown as a Director of the 1st defendant company and she is also shown to be the representing the 1st defendant company. The plaintiff has however chosen to implead 2nd defendant in her individual capacity to seek a joint and several decree against the 2nd defendant also. The claim is not one for any damages. The claim of the plaintiff is that the gratuity and other benefits have not been paid by the Company and therefore he is entitled to a sum of Rs.6,87,199/-.

3. It is settled law that a Director of a private limited company cannot be made personally liable for the liabilities of the company. It is for the plaintiff to establish his claim against the 1st defendant and if he is found entitled to, he can take a decree against the 1st defendant. He cannot seek a

personal decree against the one of the Directors of the company or a joint and several decree against the company and one of its Directors.

4. I, therefore do not find that the 2nd defendant is either a proper or a necessary party to the suit. The trial Court has however, dismissed the application filed by the 2nd defendant seeking to strike her of from the array of parties on the ground that the plaintiff being *dominus litis*, he is entitled to add anybody in the suit. I am unable to approve such disposal of this application by the trial Court. Once the law is clear that the 2nd defendant cannot be made liable for the liabilities of the company, the plaintiff cannot seek a joint or several decree against the 2nd defendant. The Theory of the plaintiff being *dominus litis* cannot apply to the case on hand. Hence, the order of the trial Court is set aside. This Civil Revision petition will stand allowed. I.A.No.14218 of 2016 in O.S.No.2997 of 2016 on the file of the VII Assistant City Civil Court, Chennai will stand allowed. The name of the 2nd defendant will stand struck of from the array of the parties. No costs. Consequently, connected miscellaneous petition is closed.

07.09.2020

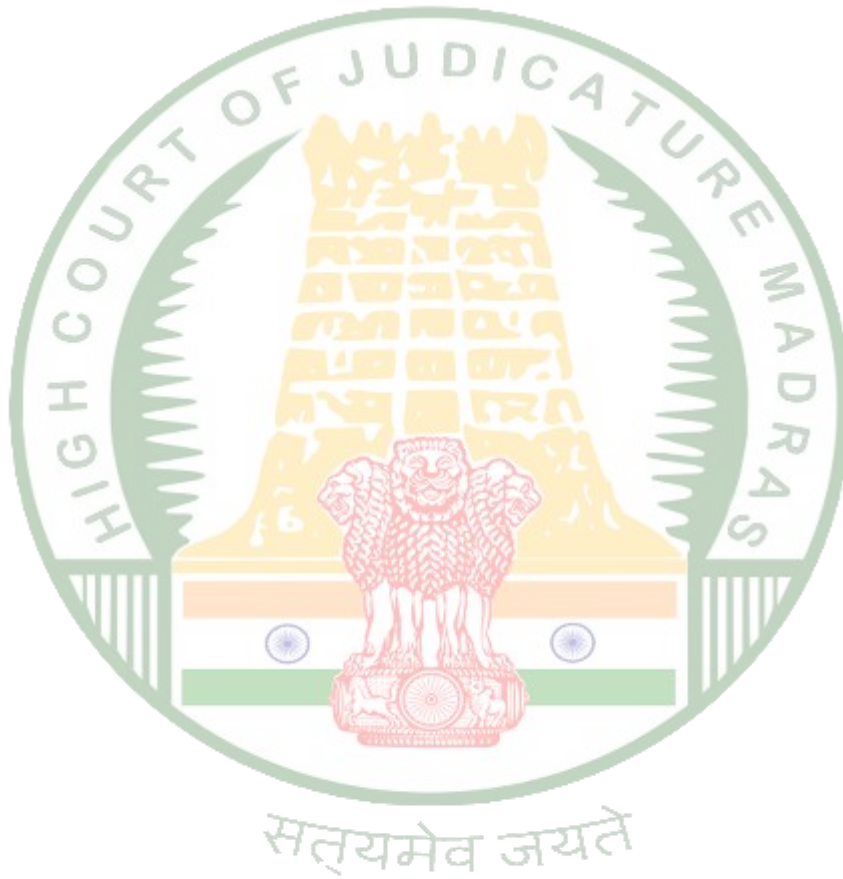
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Index: Yes/No

Speaking order / Non speaking order

To

The VIIth Assistant City Civil Court,
Chennai.

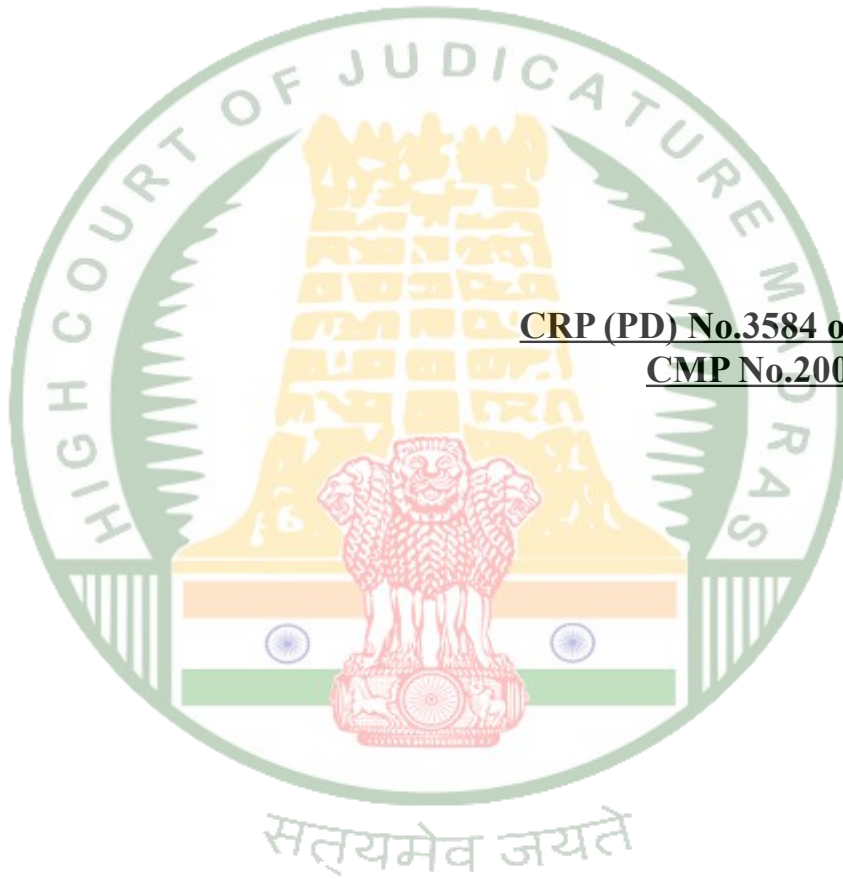


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R.SUBRAMANIAN, J.

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