



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

A.S(MD)No.71 of 2019 and
CMP(MD).No.3957 of 2019

M/S.JEYA FRUITS COLD STORAGE,
REP.BY ITS MANAGING PARTNER,
T.JEYASINGH, MALE, 61 YEARS,
S/O.THANGAIAH, DOOR NO.2-26, ARANKUVILAI,
MARUTHOORKURICHI,
KATTATHURAI POST 629 158.
KANYAKUMARI DISTRICT

...APPELLANT/PLAINTIFF

VS

1 THE CHAIRMAN,
TAMIL NADU INDUSTRIAL INVESTMENT CORPORATION LTD.,
NEW NO.692, ANNA SALAI, NANDANAM,
CHENNAI 600 035.
CORPORATION CITY OF CHENNAI.

2 THE BRANCH MANAGER,
TAMIL NADU INDUSTRIAL INVESTMENT CORPORATION LTD.,
NO.143 CAPE ROAD,
NAGERCOIL 629 001.
VADIVEESWARAM VILLAGE,
AGASTEESWARAM TALUK,
KANAYAKUMARI DISTRICT.

... RESPONDENTS/DEFENDANTS 1 AND 2

3 T.G.SREEKUMARI,
CO-PARTNER, M/S.JEYA FRUITS COLD STORAGE,
DOOR NO.2-26, ARANKUVILAI,
MARUTHOORKURICHI,
KATTATHURAI POST 629 158.
KANYAKUMARI DISTRICT.

... RESPONDENT/3RD DEFENDANT

(ADDITIONAL 3RD DEFENDANT IS IMPEADED AS PER
ORDER IN I.A.554 OF 2013)

Prayer: Appeal Suit is filed under Section 96 r/w. Order 41 Rule 1 of C.P.C., against the Judgment made in O.S.No.105 of 2011 passed by the Principal District Judge, Kanyakumari District at Nagercoil, dated 10.01.2019.



For appellant : M/s. S. Palani Velayutham
For 2nd respondent : Mr. G. Murugan
For R1 & R3 : No Appearance

JUDGMENT

WEB COPY

This Appeal Suit is filed against the Judgment and Decree, dated 10.01.2019 passed in O.S.No.105 of 2011, on the file of the Principal District Judge, Kanyakumari District at Nagercoil,

2. The plaintiff is the appellant before this Court. The plaintiff filed a suit for permanent injunction restraining the respondents 1 and 2 from taking any steps, pursuant to the notice, dated 02.06.2011. During the trial, it is brought to the knowledge of the Court that the appellant has approached the Hon'ble High Court in W.P(MD).No.9621 of 2009, wherein he was directed to deposit a sum of Rs.15,00,000/-. However, the same was not deposited. Apart from that, he was directed to deposit a sum of Rs. 17,25,000/- in I.A.No.289 of 2011, which was also not deposited. Thus, the petitioner had committed default in paying the loan amount and it was also observed by the trial Court that notice, dated 02.06.2011 had infructuous, since the subsequent notice, dated 02.12.2011 was issued. Therefore, the prayer sought for in the suit has become infructuous.

3. Apart from this, it is also found by the Trial Court that the proceedings were initiated by the second respondent viz., the Branch Manager, Tamil Nadu Industrial Investment Corporation Ltd., to recover the loan by instituting O.A.No.208 of 2017, before the Debts Recovery Tribunal, Madurai. Hence, the Trial Court has dismissed the suit as it is not maintainable and vexatious.

4. It is also well settled that as per Section 29 of the State Financial Corporations' Act, the suit is barred before the Civil Courts. Therefore, the finding of the trial Court that the suit is not maintainable is very much correct. Therefore, I do not find any reason to interfere with the finding of the trial Court. Accordingly, the Appeal Suit is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



trp

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Principal District Judge,
Kanyakumari District at Nagercoil.
- 2.The Chairman
Tamil Nadu Industrial Investment Corporation Ltd.,
New. No. 692, Anna Salai,
Nandanam,
Chennai - 600 035.
Corporation City of Chennai.
- 3.The Branch Manager,
Tamil Nadu Industrial Investment Corporation Ltd.,
No.143, Cape Road,
Nagercoil - 629 001.
Vadiveeswaram Village,
Agasteeswaram Taluk,
Kanyakumari District.

Copy to:

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

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20.11.2020

NA (CO)

NR (10/12/2020) 3P : 6C