

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2021

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(PD).Nos.2487 and 2488 of 2015

and

MP.No.1 of 2015

K.Selvaraj

..Petitioner in both the CRPs

Vs.

1.Karpaga Vinayaga Dyeing Mills,
S.F. No.456-7, Anthiyur Road,
Pudur Kadayampatti, Bhavani Taluk, rep. by its
Managing Partner M.R.Kannappan
New No.16, Old No.17, Vairapalayam Road,
Tahsildar Thottam, Near Annapoorani Theatre,
Erode - 638 003.

2.M.R.Kannappan

3.K.Dhanam

..Respondents in both the CRPs

PRAYER in C.R.P.No.2487 of 2015: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 25.03.2015 made in I.A.No.288 of 2014 in O.S.No.386 of 2009 on the file of the learned I Additional Sub Court, (II Additional Sub Court- Full charge), Erode by allowing the Civil Revision Petition.

PRAYER in C.R.P.No.2488 of 2015: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 25.03.2015 made in I.A.No.289 of 2014 in O.S.No.386 of 2009 on the file of the learned I Additional Sub Court, (II Additional Sub Court- Full charge), Erode by allowing the Civil Revision Petition.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.T.M.Hariharan

COMMON ORDER

The Civil Revision Petitions are directed as against the fair and decreetal orders in I.A.Nos.288 and 289 of 2014 in O.S.No.386 of 2009 on the file of the learned I Additional Sub Court, (II Additional Sub Court- Full charge), Erode, thereby dismissing the petitions filed by the petitioner to reopen the plaintiff's side evidence and to recall PW2 for further evidence.

2. The petitioner is the plaintiff, who had filed a suit for recovery of money as against the respondents herein. During the trial, the petitioner examined PW1 and PW2. As far as PW2 is concerned, he is an Officer of the Sales Tax Office, Bhavani and through him Ex.A9 to Ex.A11 were marked in respect of the business transactions between the petitioner and the respondents from the period 01.04.2008 onwards. He did not produced any commercial tax returns from 31.01.2006 to 01.04.2007 since their office was computerized only from 01.04.2008. Therefore, the petitioner sought for information in respect of the sales tax returns for the period from 31.01.2006 to 01.04.2007 under the Right to Information Act. It was rejected by the Assistant Commissioner, Commercial Tax. Therefore, the petitioner was constrained to file the petition to reopen and recall PW2 to mark the sales tax returns for the period from 31.01.2006 to 01.04.2007.

3. Both the petitions were dismissed by the trial court on the ground that PW2 was already examined and Ex.A9 to Ex.A11 were marked through him. On a perusal of the plaint it is seen that the suit is one for recovery of money and during the business transaction from the year 2006 to 2007 there was a due of a sum of Rs.1,79,000/- to the petitioner herein. Therefore, the plaintiff has to necessarily prove the business transaction for the period from 2006 to 2007. That apart, PW2 also admitted that the tax returns of the 1st respondent company were registered in the T-2 Register. The trial court failed to consider those aspects and dismissed the petition.

4. In view of the above discussion, the fair and decreetal orders in I.A.Nos.288 and 289 of 2014 in O.S.No.386 of 2009 on the file of the learned I Additional Sub Court, (II Additional Sub Court- Full charge), Erode is liable to be set aside and it is accordingly set aside and these Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Speaking/Non-speaking order

Index : Yes/No

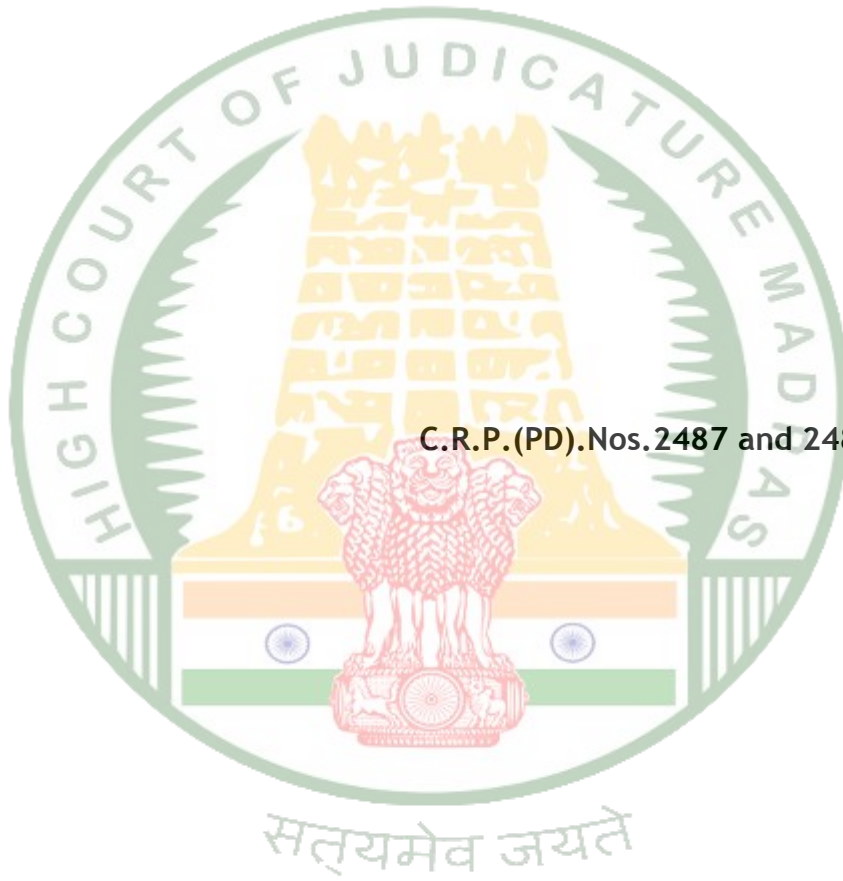
Internet : Yes/No

To

The I Additional Sub Court, (II Additional Sub Court- Full charge), Erode.

G.K.ILANTHIRAIYAN,J.

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