

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(NPD)No.906 of 2018
and C.M.P.No.4919 of 2018

Sutharsan

... Petitioner

Vs.

M/s. Century Concrete,
Represented by its Proprietor,
D.Sunilkumar Reddy,
S/o.D.Eswar Reddy,
No.A-4, The Pearl,
35/11, Kellys Road,
Kilpauk, Chennai – 600 010.

... Respondent

Prayer :- Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decretal order dated 24.11.2017 passed in I.A.No.13287 of 2017 in O.S.No.4083 of 2017 on the file of the XVIII Assistant City Civil Court, Chennai.

For Petitioner

: Mr.J.Antonay Jesus

For Respondent

: No appearance

ORDER

This Civil Revision Petition has been filed as against the fair and decreetal order dated 24.11.2017 passed by the learned XVIII Assistant Judge, City Civil Court, Chennai, in I.A.No.13287 of 2017 in O.S.No.4083 of 2017, thereby dismissing the petition to grant leave to defend the suit.

2. The petitioner is the defendant and the respondent is the plaintiff. The respondent filed suit in O.S.No.4083 of 2017 for recovery of money as against the petitioner. The case of the respondent is that in the course of business dealing viz., supply of cement bags, the plaintiff supplied cement bags to the tune of Rs.3,68,400/- to the petitioner. On receipt of the goods, the petitioner issued cheque for a sum of Rs.3,00,000/-. It was presented for collection and same was returned unpaid by the petitioner's bank. Therefore, the respondent caused notice and filed the present suit. Whereas the petitioner filed the petition in I.A.No.13287 of 2017 to grant leave to defend the suit. The Court below dismissed the said petition as against which the present Civil Revision Petition.

3. Heard Mr.J.Antony Jesus, learned counsel appearing for the petitioner. No one is represented for the respondent either by person or through counsel.

4. It is seen from the records that the petitioner specifically averred that he is a class-I contractor doing civil works for government organizations. The respondent had supplied inferior quality of cement and it was returned to the respondent immediately and the same was also informed to him. When it being so, the petitioner has got good defence to defend the suit. Unfortunately, the Court below without considering the same dismissed the petition for the reason that the petitioner has not shown any probable or plausible defence in his application. Therefore the order passed by the Court below is perverse and liable to be set aside.

5. In view of the above discussions, the order dated 24.11.2017 passed by the learned XVIII Assistant Judge, City Civil Court, Chennai, in I.A.No.13287 of 2017 in O.S.No.4083 of 2017, is hereby set aside. The

petitioner is directed to file his written statement within a period of two weeks from the date of the receipt of a copy of this Court.

6. Accordingly, the Civil Revision Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

30.07.2021

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order

rts



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To

1. The XVIII Assistant Judge,
City Civil Court, Chennai.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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C.R.P.(NPD)No.906 of 2018

G.K.ILANTHIRAIYAN, J.

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