

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2021

CORAM

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

C.R.P.(PD) Nos.4706 of 2014 & 136 of 2015
and M.P.Nos.1 of 2014 & 1 of 2015

M/s. VME Precast Pvt. Ltd.,
Rep. by its Managing Director,
No.364, Pillaiyar Koil Street,
Panneer Nagar,
Mogapier West,
Chennai - 600 037

... Petitioner in
both C.R.Ps.

Vs.

M/s.Coromandel Metal Products Pvt. Ltd.,
Rep. by its Managing Director,
No.17-A, Sembudoss Street,
Chennai - 600 001.

... Respondent in
both C.R.Ps.

Prayer in C.R.P.No.4706 of 2014:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decretal order dated 10.10.2014, made in Review Petition No.3679 of 2014 in I.A.No.9509 of 2012 in O.S.No.1869 of 2012 on the file of the VII Additional City Civil Court, Chennai.

Prayer in C.R.P.No.136 of 2015:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decretal order dated 03.01.2014, made in I.A.No.9509 of 2012 in O.S.No.1869 of 2012 on the file of the VII Additional City Civil Court, Chennai.

For Petitioner
in both C.R.Ps. : Mr.V.Ayyadurai,
Senior Counsel

For Respondent
in both C.R.Ps. : Mr.E.Senthilkumar

COMMON ORDER

The revision petition in C.R.P.No.4706 of 2014 is directed as against the order dated 10.10.2014, passed by the learned VII Additional City Civil Judge, Chennai, in Review Petition No.3679 of 2014 in I.A.No.9509 of 2012 in O.S.No.1869 of 2012, thereby confirming the order dated 03.01.2014 passed in I.A.No.9509 of 2012.

2. The revision petition in C.R.P.No.136 of 2015 is directed as against the order dated 03.01.2014, passed by the learned VII Additional City Civil Judge, Chennai, in I.A.No.9509 of 2012 in O.S.No.1869 of 2012, thereby dismissing the petition filed by the petitioner/defendant to reject the plaint.

3. The learned Senior Counsel appearing for the petitioner/defendant would submit that the respondent/plaintiff filed a suit as against the petitioner/defendant for recovery of money in O.S.No.1869 of 2012. In that suit, the petitioner/defendant filed an application in I.A.No.9509 of 2012 to reject the plaint and the same was dismissed by the trial Court by an order dated 03.01.2014, against which the petitioner/defendant filed a revision petition in C.R.P.No.136 of 2015. Insofar as the revision petition in C.R.P.No.4706 of 2014 is concerned as against the fair and decreetal order of dismissal of the petition to reject the plaint, the petitioner/defendant filed a review petition in Review Petition No.3679 of 2014 and the same was also dismissed. Aggrieved by the same C.R.P.No.4706 of 2014 has been initiated.

4. He would further submit that the petitioner/defendant filed the petition to reject the plaint in I.A.No.9509 of 2012, on two grounds. The first one is that the plaint filed by the respondent herein does not contain the proper address of the plaintiff and the plaint is not signed by the competent person as mentioned in the long cause title. Therefore, the plaint shall not be

deemed to be duly instituted and it directly hits under Order IV Rule 1(3) of C.P.C. Another ground is that no cause of action arose for the plaintiff to lay the suit as against the respondent herein. The documents annexed along with the plaint viz., page No. 7 to 18 does not contain the plaintiff's name and all the documents are invoices raised by one Sanghi Trading Corporation. Therefore for the plaintiff to initiate suit as against the respondent there is absolutely no cause of action arose. The Court below dismissed the petition without even discussing the second ground raised by the petitioner herein. Therefore, the petitioner was constrained to file a review petition to review the order passed in I.A.No.9509 of 2012. The said review petition was also dismissed without discussing the grounds raised by the petitioner insofar as the cause of action. In support of his contention, he relied upon the judgment reported in *AIR 2005 Cal 145* in the case of *Bhakti Hari Nayak and ors Vs. Vidyawati Gupta and ors.*

5. Per contra, the learned counsel appearing for the respondent/ plaintiff would submit that the respondent is the plaintiff and he filed the suit for recovery of money. There are totally two suits in O.S.No.1869 of

2012 and 1870 of 2012. The page No.3 of the plaint in O.S.No.1870 of 2012 has been annexed in the plaint in O.S.No.1869 of 2012. Like wise the documents annexed in the plaint in O.S.No.1870 of 2012 from page No.7 to 21 have been annexed in O.S.No.1869 of 2012. The petitioner herein onus money to two sister concerns viz., the respondent herein and M/s.Sanghi Trading Corporation. In both concerned Mr.Suresh Kumar Sanghi is represented as Managing Director for M/s.Coromandal Metal Products Pvt. Ltd., and as Partner in respect of M/s.Sanghi Trading Corporation. The petitioner herein cleverly forged the documents which were annexed in the other suit and filed these civil revision petitions. Therefore, he prayed for dismissal of both petitions with exemplary cost.

6. Heard Mr.V.Ayyadurai, learned Senior Counsel appearing for the petitioner and Mr.E.Senthilkumar, learned counsel appearing for the respondent.

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7. The respondent/plaintiff filed suit for recovery of money as against the petitioner herein. The petitioner/defendant filed petition for

rejection of plaint on two grounds. :-

(i) The suit was not filed by the competent person nor does the pleading satisfied the mandatory requirements of law in as much as the cause title discloses that the Managing Director is Mr.Suresh Kumar Sanghi but he has signed and verified the pleadings in his capacity as Director of the plaintiff company. There is no special resolution authorizing the signatory/director has been filed along with the plaint. No specific averment has also been made to the effect that the director was authorized to file the suit. As such the very institution of the suit is in utter contravention of the mandatory procedure and the plaint liable to be rejected.

(ii) There was no cause of action. The documents relied on by the plaintiff do not substantiate the suit claim as avered in the plaint. The invoices filed along with the plaint establish the alleged supply of materials between totally different parties of the suit. Hence the suit is liable to be rejected.

8. The trial Court dismissed the petition by observing that as per Order 29 Rule 1 of C.P.C., the Director and Managing Director are entitled to verify and sign the pleadings. Though the other ground raised by the petitioner not discussed by the trial Court, as rightly pointed out by the learned counsel appearing for the respondent, the respondent/plaintiff initiated two suits as against the petitioner for recovery of money in O.S.No.1869 of 2012 and 1870 of 2012. The suit in O.S.No.1869 of 2012 filed by M/s.Coramandal Metal Products Private Limited and the suit in O.S.No.1873 of 2012 initiated by M/s. Sanghi Trading Corporation. Both the concerns are sister concerns represented by its Managing Director and its Partner respectively. Both are represented by one Suresh Kumar Sanghi. The petitioner wrongly annexed the page No.3 of the plaint in O.S.No.1870 of 2012 in the suit filed by M/s.Coramandal Metal Products Private Limited in O.S.No.1869 of 2012 along with the documents.

9. On perusal of the plaint in O.S.No.1870 of 2012 and its documents revealed that the said suit filed by M/s.Sanghi Trading Corporation represented by its Partner Suresh Kumar Sanghi. The

documents which are annexed in the typed set filed by the petitioner in the present case, are pertaining to the suit in O.S.No.1870 of 2012. Therefore, the trial Court rightly dismissed the petition filed by the petitioner and also dismissed the review petition. Therefore, the judgment cited by the learned Senior Counsel appearing for the petitioner is not helpful to the case on hand. There is nothing warranted by this Court to interfere with the orders passed by the Court below and this Court finds no infirmity or illegality in the orders passed by the Court below.

10. Accordingly, both the Civil Revision Petitions are dismissed. There shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

05.01.2021

Internet : Yes

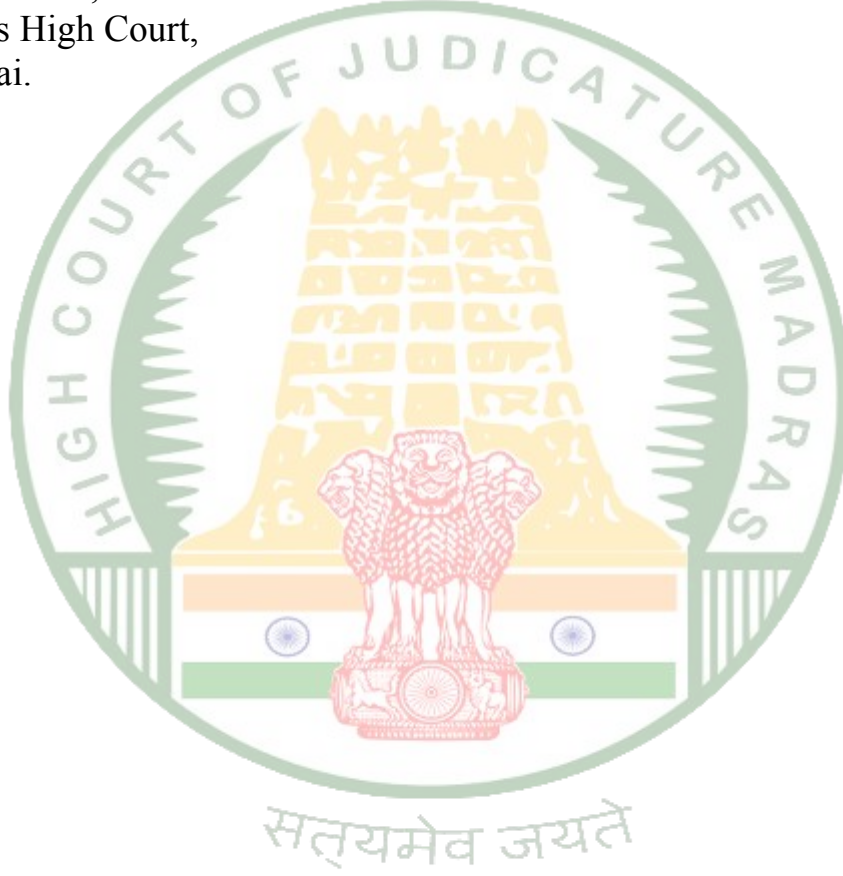
Index : Yes/No

Speaking order/Non-speaking order

rts

To

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

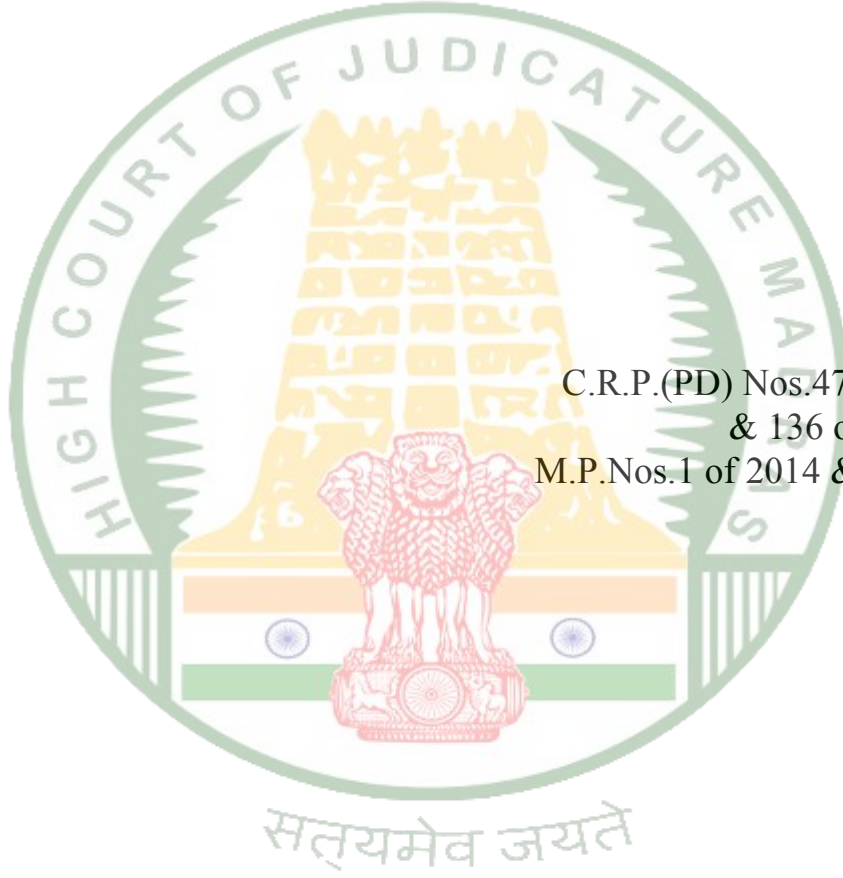


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G.K.ILANTHIRAIYAN, J.

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