

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(PD)Nos.2476 & 2479 of 2019

and C.M.P.No.16169 of 2019

(Through Video Conference)

D.M. Wall System Company Private limited
Rep.by its Director Mr. K.H. Shin,
Old No. 60, New No. 49, Goparasanallure,
Poonamalle High Road, Chennai-600 056
and Flat No.A-22, 2nd Floor, Arihant Amara Apartment,
Poonamalle High Road,
Noombal, Chennai-600 077.Petitioner in both C.R.P's

Versus

B. Angaleswari
Proprietrix of M/s. Man Construction,
Office at No. 174-A, North Masi Street, Madurai-625 001
Rep., by her Power of Attorney Agent Muthuvel,
No.317, L.I.G. Colony, K.K. Nagar,
Madurai-625 020Respondent in both C.R.P's

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the order dated 02.03.2019 in I.A.Nos.1169 & 1170 of 2018 respectively in O.S.No.2 of 2015 on the file of the learned II Additional District Judge Thiruvallur at Poonamallee.

In both cases:

For Petitioner : Mr.T.V.Badrinarayanan

For Respondent : Mr.M.V.Seshachari

COMMON ORDER

Since the issue involved in both these Civil Revision Petitions are one and the same, they are disposed of by this common order.

2. C.R.P.(NPD)Nos.2476 and 2479 of 2019 have been filed challenging the orders passed in I.A.Nos.1169 & 1170 of 2018 respectively in O.S.No.2 of 2015 on the file of the learned II Additional District Judge Thiruvallur at Poonamallee dated 02.03.2019.

3. I.A.No.1169 of 2018 was filed by the respondent / plaintiff under Order 18 Rule 17 and Section 151 of the Civil Procedure Code to reopen the plaintiff side evidence for submitting some additional documents. I.A.No.1170 of 2018 was filed by the respondent / plaintiff under Order 7 Rule 14(3) and Section 151 of the Civil Procedure Code to receive the additional documents.

4. It is seen from the affidavit filed in support of these applications that the documents now sought to be produced cannot be traced earlier and the respondent could lay hands only now and these documents are very essential for proving the case of the respondent. Therefore, these petitions have been filed.

5. These petitions were opposed by the petitioner claiming that the suit

was filed in the year 2015 and the written statement was filed during July 2015. P.W.1 was examined and cross examined on 13.07.2018 and 26.07.2018. Now, these documents are sought to be produced only to get over the lacuna, deficiency and internal contradictions which have surfaced during the course of cross examination.

6. The learned II Additional District Judge, Thiruvallur, Poonamalle, on considering the rival submissions allowed the petitions, on imposing costs of Rs.1000/- to the petitioner. Against the said order, these Civil Revision Petitions have been preferred.

7. The learned counsel for the petitioner submitted that the documents, now sought to be produced, are not relevant documents and these documents were not produced along with the plaint or prior to the examination of P.W.1. P.W1 was extensively cross examined and some answers in favour of the petitioner were received from P.W.1 during the course of cross examination. These documents are produced only to get over adverse answers elicited from P.W.1 and to get over the defects in the case of the respondent. The petitioner would be seriously prejudiced if the respondent is permitted to produce these documents.

8. After considering the merits of the petitioner's contention, the learned II

Additional District Judge, Thiruvallur, Poonamalle allowed the petition. The learned counsel now prays for setting aside the order of the learned II Additional District Judge, Thiruvallur, Poonamalle and for dismissal of the petitions to re-open the case of plaintiff and receiving of additional documents.

9. It appears that Mr.Seshachari, learned counsel filed Vakalat for the respondent. However, the vakalat was returned by the office. It was not re-presented till now.

10. Considered the submissions made by the learned counsel for the petitioner and perused the records.

11. The reading of the plaint shows that the suit was filed on the basis of business dealings for recovery of a sum of Rs. 28,84,450/- with interest from the petitioner/ defendant. The plaintiff was examined in full. When the matter was pending for examination of further witness on the side of the plaintiff/ respondent, the respondent filed applications to re-open the case of the respondent for producing certain additional documents listed in the petition. Additional documents now sought to be produced are invoices, case bills, statement of accounts..etc. The respondent claims that these documents could not be traced before the examination of P.W.1 The respondent could lay his hand only now and there is delay in filing these documents. These documents had

come into existence, according to the respondent, in the course of the business transactions between the petitioner and the respondent.

12. Considering the facts of the suit and relief claimed, this Court is of the considered view that the respondent should be given an opportunity to produce the documents, which according to him are essentially required to prove his case. Of- course, there is a delay in production of these documents. However, the learned II Additional District Judge, Thiruvallur, Poonamalle has awarded costs for the production of the documents with delay. In the considered view of this Court, the documents filed along with I.A.Nos.1169 & 1170 of 2018 can be received, subject to the admissibility, relevancy and proof.

13. In this view of the matter, this Court does not want to interfere with the order of the learned II Additional District Judge, Thiruvallur, Poonamalle and the order stands confirmed. The learned II Additional District Judge, Thiruvallur, Poonamalle is directed to receive the documents subject to admissibility, relevancy and proof in the manner known to law. The suit was filed in the year of 2015 and it comes under the category of five year old cases.

G.CHANDRASEKHARAN, J.,

sts/jai

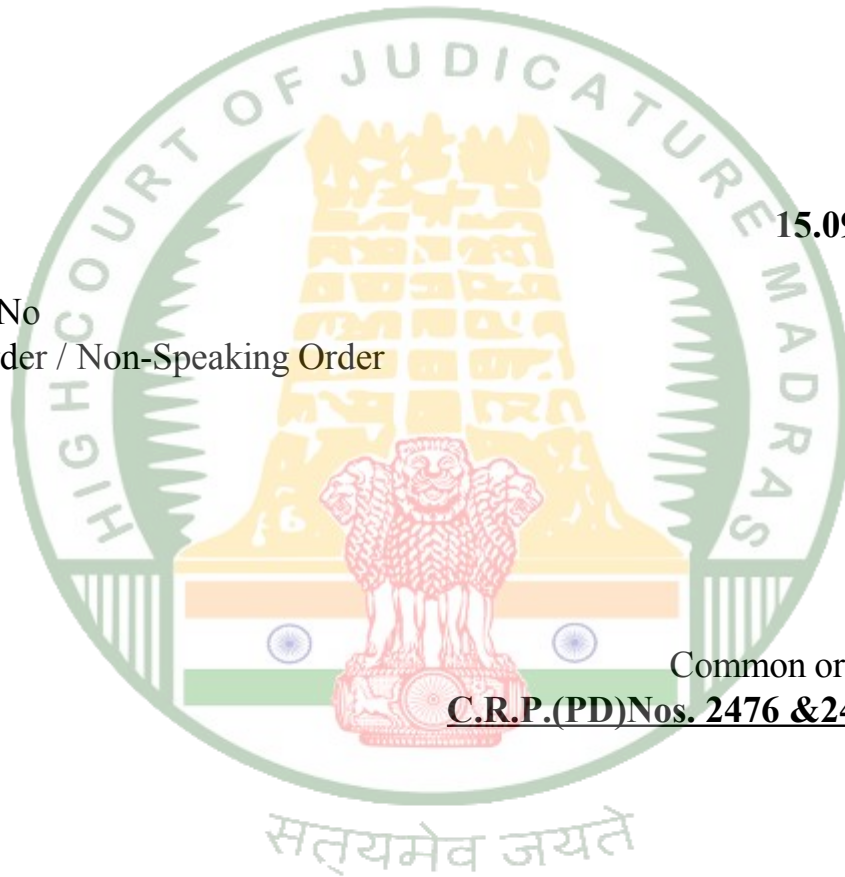
Therefore, the learned II Additional District Judge, Thiruvallur, Poonamalle is

directed to dispose the case, as expeditiously as possible, preferably within a period of four (04) months from the date of receipt of copy of this order.

14. With the above directions, these **Civil Revision Petitions** are **Disposed** of. No costs. Consequently, connected miscellaneous petition is closed.

Index: Yes/ No
Speaking Order / Non-Speaking Order
sts/jai

15.09.2021



Common order made in
C.R.P.(PD)Nos. 2476 & 2479 of 2019

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