



C.R.P (NPD).No.668 of 2022 and
C.M.P.No.3425 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	21.06.2022
Pronounced on	06.07.2022

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

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1.M/s.Vijayalakshmi Paper Mills,
Rep by its Proprietor,
Mrs.Jeevanlatha Ramasamy,
Vilampatti, Nilakottai,
Dindugal District, Tamil Nadu.

2.Mrs.Jeevanlatha Ramasamy,
Proprietor of M/s.Vijayalakshmi Paper Mills,
No.246, Adjacent to Shiva Chambers Building,
Opp. to Bharathi Park, Alagesan Road,
Saibaba Colony, Coimbatore 641 011.

... Petitioners

Vs.

M/s.K.M.Traders,
A Partnership Firm rep by its Partner,
Mr.M.Mohan Kumar,
No.48/1A, Ramanuja Iyer Street,
Old Washermenpet,
Chennai 600 021.
Respondent

...

PRAYER : Civil Revision Petition is filed under Section 115 of the C.P.C., to call for the entire records relating to the order dated 29.10.2021, in I.A.No.3 of 2020 in O.S.No.8902 of 2019 passed by the XV Additional City Civil Court,



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Chennai and set aside the same.

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For Petitioners : Mr.T.V.Suresh Kumar for
M/s.Genicon and Associates
For Respondent : Mr.V.Manisekaran

ORDER

This civil revision petition has been preferred challenging the order of the learned XV Additional City Civil Court, Chennai dated 29.10.2021, made in I.A.No.3 of 2020 in O.S.No.8902 of 2019.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

3. The revision petitioners are the defendants in the suit. The suit has been filed by the respondent / plaintiff for recovery of money on the basis of the business transaction in supplying the goods to the revision petitioners. The revision petitioners have filed a petition seeking leave to defend and the said petition was dismissed and the suit was decreed. Aggrieved over that, the revision petitioners have preferred this revision petition.



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4. The learned counsel for the revision petitioners submitted that the suit itself will not fall under Order 37 Rule 2 and hence, it should not be tried summarily; the statement of accounts furnished by the respondent is not correct and there are discrepancies; The goods submitted to the supplier by the respondent are defective and inferior quality, for which, the revision petitioners raised a debit note and about which, a finding should be given; the suit has been filed on the basis of the fabricated documents and hence, the petitioners / defendants are not liable to pay the suit amount; the respondent firm is an unregistered partnership firm and hence, no suit can be filed in the name of the unregistered partnership firm which is in violation of Section 69(2) of the Indian Partnership Act; the learned Trial Judge has omitted to consider all the vital points despite there are triable issues to be tried in the suit and dismissed the petition seeking right to defend; hence, the order of the learned Judge should be reversed.

5. The learned counsel for the respondent / plaintiff submitted that the respondent / plaintiff is very much a partnership firm, which is involved in supply of waste paper note books in different forms to its customers across



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Tamil Nadu; the respondent did not dispute the invoice, through which, the goods were supplied by him on various dates from 10.12.2016 to 27.06.2017; a legal notice was also sent, for which, the petitioners / defendants sent a reply notice by stating that they did not accept the account statement; however, a rejoinder notice was sent subsequently by the respondent by showing breakups clearly and they also reflected the dues correctly and as claimed from the defendants; for which, the defendants did not raise any objection; as per the terms prescribed in the invoice itself, the defendants are liable to pay interest, if no payment is made within 15 days; the petitioners / defendants did not file a petition for getting leave to defend within 10 days from the date of receipt of the summons; since the defendants failed to show that they have good defence and there are triable issues in the suit, the learned Trial Judge has rightly denied the defendants' petition seeking leave to defend.

6. Points for consideration :

Whether the petitioners / defendants are entitled to get the leave to defend on the basis of their pleadings?

7. The respondent / plaintiff has filed a suit for recovery of sum of



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Rs.37,80,537.31/- along with interest as the outstanding due to be paid by the defendants in connection with the goods bought by them from the respondent / plaintiff between the period from 10.12.2016 to 27.06.2017, through various invoices. It is not the contention of the revision petitioners that the respondent / plaintiff is a stranger and in fact, there were business dealings between the plaintiff and the defendants. The case of the respondent / plaintiff is that he is a firm involved in supply of waste paper note books in different forms to his customers across the State. The revision petitioners happened to be his customer and placed orders for purchase of the goods from the plaintiff. The respondent / plaintiff produced the invoices to show that the goods were supplied to the defendants on various dates between 10.12.2016 to 21.06.2017. The revision petitioners did not dispute the invoice bills though it is claimed that the goods supplied on the above invoices did not meet out the requirement of the revision petitioners and they were of substandard quality. However, the goods were not returned. On the other hand, the petitioners / defendants utilised the goods. Neither the defendants have taken any legal proceedings against the respondent / plaintiff for having supplied poor quality of goods or goods did not meet the standard prescribed in the order placed. The learned Trial Judge has rightly observed the same in her order.



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8. One of the contentions raised by the petitioners / defendants is that they are not liable to pay interest for the outstanding amount. In the invoice against which the defendants purchased the goods, it is mentioned that the time for payment of purchase amount on credit will be made within 15 days and thereafter, the purchaser will be liable to pay interest on the invoice amount. So, the grounds raised by the defendants about the dis-entitlement of the interest also is not a triable issue. Though the defendants submitted that the respondent / plaintiff is an unregistered firm, the documents on record would show that the respondent / plaintiff is very much a registered firm. It is claimed by the defendants that the account statement is not correct, but the statement now sought to be produced by the defendant does not have any supporting documents. Further, the said statement of accounts was sent to the plaintiff during the exchange of pre-litigation notice. The self -serving debit notes after accepting and utilising the goods received, cannot be of any consequence and hence it can have no impact on the money claimed by the plaintiff.

9. In fact, for the allegation raised by the petitioners / defendants in their



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reply notice about the unreliability in the statement of accounts, the respondent / plaintiff filed a rejoinder notice and clarified the genuinity of his statement of accounts and that was not denied by the petitioners / defendants. Despite Exhibit P1 letter dated 31.03.2015 was sent, referring about the supply between April 2014 to March 2015, but there is no mention in the body of the letter about any specific invoice under which the goods were purchased and found to be of poor quality. After having utilised the goods, if the defendants themselves debit the amount in the accounts maintained by themselves and claim that they are not liable to pay the amount so deducted by them, that cannot be acceptable in the absence of any previous adjudication.

10. It is not the claim of the defendants that the debit notes which made by themselves, were accepted by the respondent / plaintiff. Further, in the reply notice of the defendants also, the facts about the poor quality of the materials were not mentioned. So, the defendants cannot be allowed to invent something as a valid defence for the purpose of protracting the proceedings. Since the money involved is based on the purchase made by the petitioners / defendants from the respondent / plaintiff on the invoices for credit, the defendants are liable to pay the same.



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11. The sale of goods under credit is a kind of routine business contract. Hence, the claim of the defendants that the suit will not fall under Order 37 Rule 2, cannot be accepted.

12. Since the issues listed by the defendants were on weak premise, they are not triable. Hence, the learned Trial Judge is right in denying the leave to defend. Therefore, the order passed by the learned Trial Judge does not require any interference of this Court.

13. Accordingly, this Civil Revision Petition stands dismissed and the order passed by the XV Additional Judge, City Civil Court, Chennai in I.A.No.3 of 2020 in O.S.No.8902 of 2019 dated 29.10.2021, is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Index: Yes/No
Speaking / Non Speaking Order
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To
XV Additional City Civil Court,
Chennai.



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R.N.MANJULA, J

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