



C.R.P.No.115 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON :	02.09.2022
PRONOUNCED ON :	08.11.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.No.115 of 2014
and M.P.No.1 of 2014

Bajrangbali Trading Company
Registered Partnership Firm,
Represented by its Partner,
Mr.Anil Kumar Ojha,
No.403/D-4, Thiruvottiyur High Road,
Chennai 600 019

.. Petitioner/ Plaintiff

Versus

Gandhimathi Appliances Ltd.,
Rep. by its Company Secretary,
D.Krishnamoorthy,
Corporate Office, 377, Anna Salai,
Teynampet, Chennai 600 018

.. Respondent/ Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 29.10.2013 passed in I.A.No.14771 of 2013 in O.S.No.7466 of 2006 on the file of XVIII Assistant City Civil Court, Chennai.

For Petitioner : Mr.S.Ravichandran

For Respondent : Mr.S.Elambharathi



C.R.P.No.115 of 2014

ORDER

WEB COPY

Aggrieved against the order dated 29.10.2013 passed in I.A.No.14771 of 2013 in O.S.No.7466 of 2006 on the file of XVIII Assistant City Civil Court, Chennai, the petitioner/plaintiff has preferred the present Civil Revision Petition.

2.The brief facts, that are necessary for the disposal of the present civil revision petition are as follows:-

2.1. The revision petitioner herein is the plaintiff in O.S.No.7466 of 2006. The defendant has approached the plaintiff for supply of Grade -A steel Form IS 2062/92 Grade for 50 M.T.s but later the defendant has not taken delivery of the materials from the plaintiff and since the materials could not be sold to anyone else, the materials were sold as scrap, as a result of which, the petitioner/plaintiff has incurred loss of Rs.13,000/- per M.T. totalling an estimated loss of Rs.6.5 lakhs. Therefore, the suit was filed for damages against the respondent seeking for a direction to the respondent/ defendant to pay a sum of Rs.5,77,250/- along with subsequent interest at 12% per annum of Rs.6,50,000/- from the date of plaint till the date of realisation and for other costs.



C.R.P.No.115 of 2014

2.2. The suit was decreed in favour of the plaintiff vide judgment dated 09.01.2008, directing the respondent to pay the decree amount, as prayed for, before the Trial Court. Aggrieved against the same, the defendant/respondent has filed an appeal in A.S.No.540 of 2008 before this Court. This Court had allowed the appeal by remanding the case back to the lower Court vide judgment dated 24.08.2011, by setting aside the order of the lower Court, only to determine the issue as mentioned in paragraph 14 of the said judgment.

2.3. Pursuant to the same, the petitioner / plaintiff filed an application under Order VII Rule 14(3) of the Civil Procedure Code in I.A.No.14771 of 2013 to grant leave to the petitioner / plaintiff to receive additional documents, (Exh. A-18 to A-24) as evidence on behalf of the plaintiff in O.S.No.7466 of 2006. After hearing the submissions made by both sides, the learned Judge had accepted the three exhibits, i.e. Exhibits A-18 to A-20 and rejected the remaining four documents i.e. Exhibits A-21 to A-24, thereby partly allowing the interlocutory application vide order dated 29.10.2013. Aggrieved against the order of rejection of four documents, i.e. Exhibits A-21 to A-24, the petitioner/plaintiff has filed the present revision.



C.R.P.No.115 of 2014

WEB COPY

3. The learned counsel for the petitioner/plaintiff advanced his submissions by stating that eventhough the suit in O.S.No.7466 of 2006 was decreed in favour of the plaintiff/petitioner, the same was remanded by Appellate Court to the Court below, by directing the plaintiff/petitioner as well as the defendant/ respondent to let in their evidence in support of their case. In such circumstances, it is necessary for the plaintiff/ petitioner to file the additional documents which are necessary to support his case. Since the appeal filed by the defendant/ respondent was allowed by remanding the matter back to the lower Court to determine the issue in paragraph 14 of the judgment dated 24.08.2011, the learned Judge ought to have verified the documents submitted by the petitioner/plaintiff. But in the present case on hand, the learned Judge had declined to admit the documents, which, according to the learned counsel for the petitioner/plaintiff is necessary to determine the issue. Since this court in A.S.No.540 of 2008, ordered for remand, the rejection of the necessary exhibits filed by the petitioner/plaintiff is perverse and illegal. Therefore, the learned counsel for the petitioner/plaintiff sought to set aside the order, dated 29.10.2013.



C.R.P.No.115 of 2014

4. Resisting the above submissions made by the learned counsel for the petitioner/ plaintiff, the learned counsel appearing on behalf of the respondent would submit that Exhibits A-21 to A24 were none other than but the balance sheet for the Financial Year 2004-05, list of purchasers reported to the Sales Tax Authorities for the Financial Year 2004-05, ledger extracts showing credit balance and ledger extract showing nil balance for the Financial Year 2007-08. According to the learned counsel for the respondent, these documents have no relevant cause of action and the Court below after hearing both sides, has rightly rejected the application in respect of acceptance of the four documents, i.e. Exhibits A-21 to A-24.

5. Heard the learned counsel for the petitioners as well for the respondents and perused the materials placed before this Court.

6. Perusal of the judgment passed in A.S.No.540 of 2008 shows that the suit has been remanded to the trial Court with the following observations and directions:

"Now the point that arises for consideration is as to whether before selling the product as scrap any proper notice has been issued to the appellant and whether the



WEB COPY



C.R.P.No.115 of 2014

scrap has been sold for correct price have to be seen and it has to be worked out.

The appellant has produced three xerox copies of the bills to show that the materials have been sold to one third party on different quantity on the same day. Since this matter requires some additional evidence, I am of the view that the matter has to be remanded back to the trial court to mark the documents giving opportunity to both sides to let in evidence to prove the documents and to consider those and to decide whether the respondent is entitled for the suit claim.

In the result, the appeal is allowed. The judgment and decree of the trial court is set aside and the matter is remanded back to the trial court only to determine the issue as mentioned in para 14 of this judgment".

7. The learned Judge, finding that the plaintiff has produced three xerox copies of the bills before the Appellate Court to show that the materials have been sold, whereby, the Appellate Court had directed the trial Court to mark the above bills to determine the issue (i) as to whether before selling the product as scrap, any proper notice has been issued to the appellant and (ii) whether the scrap has been sold for correct price, after providing sufficient opportunity to



C.R.P.No.115 of 2014

both sides. It is also seen that the petitioner has sought for receiving the above three bills as exhibits A21 to A24, along with other four documents exhibits A18 to A20, which were produced before the trial Court, when the matter was remanded by the Appellate Court. The above matter was remanded by the Appellate Court only for that limited purpose and the petitioner by way of filing the present application, has sought for including new set of documents, which have not been stated earlier before the Appellate Court.

8. The learned Judge has rendered a finding that the Appellate Court has remanded the above matter only for the purpose to the limited extent of marking the above three documents, which was specifically permitted by the Appellate Court and finding that the objections raised by the respondents stating that the documents sought to be marked i.e. A-21 to A-24 are the balance sheet for the Financial Year 2004-05, list of purchasers reported to the Sales Tax Authorities for the Financial Year 2004-05, ledger extracts showing credit balance and ledger extract showing nil balance for the Financial Year 2007-08 do not have any relevance to the cause of action pleaded in the suit, has partly allowed the application thereby receiving the documents Exhibits A-18 to A-20, but rejected documents viz., Exhibits A-21 to A-24. Therefore, the order passed by the learned Judge is a well considered order and it does not warrant any interference



C.R.P.No.115 of 2014

from this Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.11.2022

Index : Yes / No

Internet : Yes

sts

To:

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



WEB COPY



C.R.P.No.115 of 2014

J.NISHA BANU, J.,

sts

Order made in
C.R.P.No.115 of 2014

Dated:
08.11.2022