



C.R.P.No.3903 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM

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

C.R.P.No.3903 of 2016
and C.M.P.No.19861 of 2016

S.S.P.Durairaj Firm,
Represented by partner D.Ravi .. Petitioner

Vs.

M/s Susee Dhall Mill,
Represented by its sole proprietress
P.J.Suseela .. Respondent

Prayer : Civil Revision Petition filed under Section 115 of CPC to set aside the fair and Decreetal order dated 23.03.2016 passed in I.A.No.16621 of 2015 in O.S.No.4831 of 2015 on the file of VI Assistant City Civil Court, Chennai.

For Petitioner : Mr.S.L.Sudarsanam

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed as against the fair and Decreetal order dated 23.03.2016 passed in I.A.No.16621 of 2015 in O.S.No.4831 of 2015 on the file of VI Assistant City Civil Court, Chennai, thereby dismissing the petition filed to grant leave to the petitioner to defend the suit.

2. The petitioner is the defendant in the suit filed by the respondent for



recovery of money to the tune of Rs.7,00,000/-. According to the respondent, the defendant purchased Orid Dhall about four tons under bill dated 10.08.2012 and promised to pay a sum of Rs.2,16,680/-. Accordingly, the goods were delivered in favour of the petitioner herein. Again, on 18.09.2012, the plaintiff supplied another four tons of Orid Dhall for a sum of Rs.2,00,080/-. The defendant also promised to pay the said amount with interest at the rate of 24% per annum for any delay in payment. Thereafter, the defendant failed to pay the said amount and hence the suit.

3. On receipt of the suit summons, the defendant filed an application to grant leave to defend the suit, on the ground that the Bill Nos.355 and 363 produced by the respondent herein did not contain the signature of the defendant. Therefore, the defendant has valid defence to defend the suit.

4. That apart, the defendant had served a notice of appearance on the plaintiff's counsel on 16.10.2015. However, the counsel for plaintiff had summons for judgment only on 03.11.2015. It is beyond the period prescribed as per Order 37 Rule 3(5) of CPC. Therefore, the defendant has valid defence to defend the suit.

5. In view of the above, the order dated 23.03.2016 passed in



C.R.P.No.3903 of 2016

I.A.No.16621 of 2015 in O.S.No.4831 of 2015 on the file of VI Assistant City

Civil Court, Chennai, is hereby set aside. The petitioner is directed to file a written statement, within a period of four weeks from the date of receipt of a copy of this order. The Trial Court is directed to dispose of the suit in O.S.No.4831 of 2015, within a period of six months thereafter.

6. Accordingly, this Civil Revision Petition is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

09.12.2022

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

mn

G.K.ILANTHIRAIYAN,J.



WEB COPY



C.R.P.No.3903 of 2016

mn

To

1. The VI Assistant City Civil Court, Chennai.
2. The Section Officer,
VR Section,
High Court, Madras.

C.R.P.No.3903 of 2016
and C.M.P.No.19861 of 2016

09.12.2022