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C.R.P.No.3020 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.No.3020 of 2017
and
C.M.P.No.14194 of 2017

K.Sakthivel

...Petitioner

Vs.

Creative Texchem India Pvt. Ltd.,
A company registered under the
Companies Act, rep by its,
Managing Director,
Ashok M.Bhatt,
S/o.Maganlal,
Camex House,
4/144, Akilmedu, 6th Street,
Erode-638 001.

...Respondent

Civil Revision Petition has been filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 08.06.2017 made in I.A.No.135 of 2017 in O.S.No.53 of 2013 on the file of the learned Second Additional District Court, Erode, by allowing the civil revision petition.



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For Petitioner : Mr.N.Manokaran
For Respondent : Mr.D.Gopal

ORDER

This Civil Revision Petition has been filed by the defendant against the respondent/plaintiff in O.S.No.53 of 2013, on the file of the II Additional District Court, Erode, for recovery of money.

2. The defendants had also opposed the suit by denying the plaintiff's claim. The issues were framed, the trial begin and witnesses were examined. The evidences on both the sides were closed and at that time, the plaintiff filed an application to re-open and re-call the witness of DW1 in I.A.No.135 of 2017. The reasons for the said application as stated in the affidavit filed in support of the said application is that at the time of trial, the defendants were setting up a new story as if the petitioner company failed to give credit to the ICICI Bank cheque amount in the account in addition to the Allahabad Bank cheque amount. With regard to the said fact, the plaintiff wants to cross-examine the DW1 because it was raised at the first time only during the trial and has not mentioned in the written statement. The said application was



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objected by the defendant stating that the reasons stated in the affidavit filed in support of the said application is false and incorrect statement and hence, the said application is liable to be dismissed. On considering the submissions on both sides, the trial Court allowed the application stating that with regard to the said new facts, the plaintiff is entitled to cross-examine DW1. Challenging the said findings, the defendants had filed this revision.

3. The learned counsel for the defendant/petitioner herein submits that the trial Court failed to take note of the fact that the DW1 has already admitted the statement of accounts produced by him and even if alleged cheque numbers given by the plaintiff differs by mistakes, the trial Court erroneously allowed said application. Hence the defendant prays to set aside the said findings of the trial Court.

4. The learned counsel for the plaintiff/respondent herein submits that with regard to the Alahabad Bank cheque and ICICI bank cheque transactions, the DW1 came to the facts only at that time of evidence and not before the evidence. Therefore, the plaintiff must give an opportunity to



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cross-examine DW1 with regard to the said fact.

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5. On considering the submissions made and on perusal of the records, it is clear that admittedly the suit is filed by the plaintiff for recovery of money and before the trial Court he has to exercise all his remedy to defend his case. Therefore, the findings given by the trial Court needs no interference.

6. Accordingly, this Civil Revision Petition is dismissed. However, considering suit is pending from 2010, the trial Court is directed to dispose of the suit as expeditiously as possible by giving opportunity to both sides. Consequently, the connected miscellaneous petition is also closed. There shall be no order as to costs.

18.10.2022

Speaking/Non-speaking order
Index: Yes/No
Internet : Yes/No
nsa



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To

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1.The II Additional District Court,
Erode.

2.The Section Officer,
V.R.Section,
High Court, Madras.



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T.V.THAMILSELVI,J.

nsa

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