



C.R.P(PD)No.801 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P(PD).No.801 of 2017

and

CMP.No.6560 of 2017

1.M/s.Sunrise Knitting Mills Pvt. Ltd.,
A company registered under the Indian Companies Act,
Represented by its Director,
B.Shanmugavadivel

2.B.Shanmugavadivel

3.R.Mahesh

..Petitioners

Vs.

1.M/s.Sunrise Knitting Mills,
A Registered Partnership Firm,
Reprsentd by its Partner M.Venkatachalam

2.M.Venkatachalam,

3.S.Sivaraman

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 16.02.2017 made in I.A.No.447 of 2016 in O.S.No.305 of 2016 on the file of the Principal District Court, Tiruppur.



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For Petitioners : Mr.R.Ragavendran
For Respondents : Mr.Arun Mohan

ORDER

This Civil Revision Petition arises out of an order passed in I.A.No.447 of 2016 dated 16.02.2017 in O.S.No.305 of 2016, which is now pending on the file of the Principal District Court, Tiruppur.

2.O.S.No.305 of 2016 had been filed by the 1st respondent herein / M/s.Sunrise Knitting Mills, which is a registered partnership firm under Section 27 of the Trade Marks Act for passing off and seeking consequential reliefs of injunction. The present revision petitioners / defendants entered appearance and they filed an application under Order 7 Rule 11 of C.P.C., claiming that there was no cause of action to institute the suit and also further claiming that the petitioner firm itself does not exist, owing to an Arbitration award. The said application filed under Order 7 Rule 11 of C.P.C., namely, I.A.No.447 of 2016 had been dismissed, necessitating filing of the present revision petition.



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3.The learned counsel for the revision petitioners stated that the revision petition may be disposed of but at the same time, liberty may be granted to the revision petitioners / defendants in the suit to raise the aforementioned issues namely, lack of cause of action to institute the suit and also, the fact that the plaintiff firm does not exist as on date. Such liberty need not be granted but it can be mentioned that the defendants as revision petitioners always have a right to take up every defence for a suit filed and if among those defences it is quite prudent that aforementioned two defences are also to be taken, they may very well be taken. It would also mean that they can also take up any of the aspect in their written statement.

4.In view of the above decision, this Civil Revision Petition is dismissed but, the order of dismissal has been passed without entering into a discussion on the aspects raised under Order 7 Rule 11 of C.P.C. No costs. Consequently, connected miscellaneous petition is closed.

16.03.2022

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

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C.V.KARTHIKEYAN, J.

KKN

To:-

The Principal District Court,
Tiruppur.

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and
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