



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2022

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THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P(MD)No.2188 of 2017

and

C.M.P(MD) No.10744 of 2017

Shreem Enterpraises,
A Partnership Firm,
Represented by its
partners Usha K.Ramesh and N.S.Nayaki,
Through their Power Agent and Administrator,
K.Ramaesh

... Petitioner/Respondent/
Plaintiff

Vs.

Johnson and Johnson Ltd.,
Having Registered Office at Spencer's Building,
30, Forjett Street,
Mumbai-36.

... Respondent/Petitioner/
Defendant

PRAYER:- Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 31.07.2017 passed in I.A.No.322 of 2017 in O.S.No.585 of 2013 on the file of the Principal District Munsif Court, Trichy and allow this revision petition.

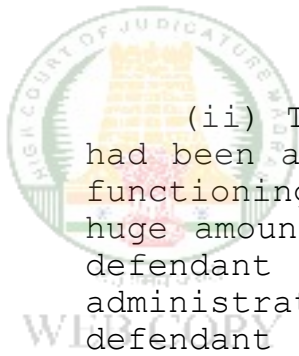
For Petitioner	: Mr.V.G.Kamalesh
For Respondent	: Mr.C.Muthu Saravanan
	for M/s.S.Ramasubramanian & Association

ORDER

The plaintiff is before this Court challenging the order passed by the Principal District Munsif, Trichy in allowing I.A.No.322 of 2017 in O.S.No.585 of 2013.

2.The facts in brief are as follows:-

(i) The revision petitioner/plaintiff had filed the suit for a declaration that the stoppage of supply to them from September 2012 by the defendant is null and void abinitio, arbitrary, colourable, irrational, malafide, biased and against the principles of natural justice and for a mandatory injunction directing the defendant to restore the supply of stock regularly to the plaintiff's concern, Shreem Enterprises without any reservations.



(ii) The revision petitioner/plaintiff's grievance is that they had been appointed as a dealer of the defendant and they have been functioning so for over 12 years for which they have also invested huge amounts of money. It is their case that all of a sudden the defendant had stopped the supply to the plaintiff. The administrator of the plaintiff had issued a communication to the defendant company. The plaintiff would submit that this stoppage had been done without notice to them, as a result of which, they had suffered a huge loss. Therefore, the plaintiff had come forward with the above suit for the relief stated supra.

(iii) The defendant had filed the written statement *inter alia* contending that the plaintiff has not been functioning properly and there were irregularities in their operations. The said irregularities were also found in the plaintiff's sister concern, M/s.Hostech services. The partners of the plaintiff are partners in this firm as well. They have been undertaking questionable practices, misreporting sales and claiming wrong benefits from the defendant. On coming to know about the same, the defendant had stopped the supply. The defendant had raised other contentions in their written statement. They had ultimately stated that the suit is not maintainable. Thereafter, the defendant came forward with the impugned application seeking the leave of the Court to file additional documents which have been described in the petition for receiving the additional documents.

(iv) In the affidavit filed in support of the same, the defendant would submit that the trial has commenced and evidence of the plaintiff has been completed and the matter was pending for the defendant side evidence. The defendant would submit that the following documents were required to substantiate their case:

- a) Report on Dealer Review of the plaintiff, November 2012.
- b) Report on Dealer Review of Hostech Services, November 202.
- c) Email dated 26.12.2012 sent by the plaintiff
- d) Termination Letter dated 22.01.2013

(v) The defendant had clearly stated that at the time of the filing of the written statement the documents particularly the two reports had gone missing and were not traceable. Therefore, they could not be included in the list of documents. Thereafter, after conducting a thorough search, the defendant had come across the documents and therefore wished to file the same. They would submit that no prejudice is going to be caused to the plaintiff as these documents are necessary for proving the case.

(vi) The plaintiff had filed a counter *inter alia* contending that this was only an attempt to protract the proceedings and



further there were no pleadings with reference to the above documents and therefore, the same cannot be allowed.

(vii) The learned Principal District Munsif, Trichirapalli, by order dated 31.07.2017 was pleased to allow the same. Challenging the above, the civil revision petitioner is before this Court.

3.The learned counsel for the petitioner would vehemently contend that there are no pleadings to support the documents that are now sought to be filed in the suit on the side of the defendant. He would draw the attention of the Court to paragraph No.12 of the order wherein the learned Judge has clearly opined that there is no pleading with reference to documents Nos.5 and 6. He would submit that therefore after so holding the learned Judge has erred in allowing the application.

4.In order to appreciate the arguments of the learned counsel on either side, it is necessary to briefly consider the written statement filed by the defendant. In the said written statement, the defendant has admitted that the plaintiff was appointed as a distributor and that the distribution agreement was valid for the period of three years from 08.12.2020. The defendant has, in paragraph No.5 of the petition, stated as follows:-

5.In such circumstances, the defendant became aware of certain irregularities in the operations of the plaintiff and it's sister concern, M/s.Hostech Services, the partners of which are the partners of the plaintiff, and wrongful and questionable practices, misreporting sales and claiming wrong benefits from the defendant followed by the plaintiff and its sister concern mentioned above in the execution of its operations as the distributor of the defendant. Needless to state that due to such wrongful and questionable practices the defendant lost trust and faith in the plaintiff. The defendant discontinued supplies to the plaintiff from September 2010 as the defendant was examining and investigating such wrongful practices of the plaintiff and its sister concern. Subsequently, by e-mail dated 27.12.2012, the plaintiff had requested for the reasons for suspending supplies. On 22.01.2013, a meeting was conducted at the defendant's office at chennai which was attended by the Officers of the Defendant and Mr.K.Ramesh representing the plaintiff along with the plaintiff's Advocete and Auditor. During the aforesaid meeting, the reasons for suspension of supplies and the reasons why the defendant had lost trust and faith in the plaintiff were discussed and informed to the plaintiff. Pursuant to the aforesaid meeting, the management of the defendant was contemplating termination of the appointment of the plaintiff as a Distributor of the defendant by



terminating the Distributor Agreement. It was decided by the defendant to terminate the Distributor Agreement. However, before the decision of termination could be formally issued by the management of the defendant, the plaintiff has filed the present suit.

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5.The documents that are now sought to be filed are the reports about the plaintiff, the report of the dealer review of their sister concern Hostech Services, that apart, the E-mail dated 26.12.2012 and the termination letter. It is the contents of para No.5 that are sought to be established by these documents. Therefore, sufficient pleadings are available with reference to the above documents. The arguments of the learned counsel for the plaintiff is therefore unsustainable. Further, the order of the learned Principal District Munsif, Trichy, that there is no pleading for documents Nos.5 and 6 is also incorrect in the light of the contents of paragraph No.5. It is needless to state that after the documents are received, when the said documents are sought to be marked, the same is subject to proof and relevancy. Therefore, I do not find any reason to disagree with the order passed by the learned Principal District Munsif, Trichy.

6.In the result, this Civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

The Principal District Munsif,
Trichy.

C.R.P(MD)No.2188 of 2017

and

C.M.P(MD) No.10744 of 2017

07.01.2022

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