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SA.No.444 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20 .11.2023

CORAM

THE HON'BLE Mr.JUSTICE **C.KUMARAPPAN**

S.A.No.444 of 2010

and

M.P.No.1 of 2010

Dr.R.Anbarasan

... Appellant

- Vs -

Meena Medical Agency
Functioning at Mannargudi
Mannargudi District Munsif
Through its Shareholder
P.L.Palaniyappan
S/o A. Pazhaniyappa Chettiyar

... Respondents

Prayer: Second Appeal is filed under Section 100 of the Civil Procedure Code against the Judgment and decree dated 04.06.2009 made in A.S.No.47 of 2008 on the file of the Subordinate Judge, Mannargudi confirming the Judgment and decree dated 30.07.2008 made in O.S.No.218 of 2007 on the file of the District Munsif Court, Mannargudi.

For Appellant : M/s S. Kasirajan
For Respondent : Ms.H. Sujithra for M/s P.T. Ramadass



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JUDGMENT

This second appeal was filed at the instance of the defendant.

2. For the sake of convenience, parties will be referred according to their litigative status before the Trial Court.

3. The plaintiff is a supplier of medicine and the defendant is the Doctor. According to the plaintiff they supplied medicine on credit basis and thereby there was a due for a sum of Rs.12,769/-. Hence, the plaintiff filed a suit for recovery of Rs.13,222/- along with interest for a sum of Rs.453/-.

4. The said suit was resisted by the defendant by contending that he is not liable to pay any amount to the plaintiff and it is the submission of the defendant that he has not signed in any of the invoices. Further the Trial Court after taking into consideration of either side submissions and the documents has decreed the suit.



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5. Aggrieved with the same the defendant approached the First Appellate Court and the First Appellate Court has also confirmed the decree and dismissed the appeal. Aggrieved with the same the defendant is before this Court.

6. I have given anxious consideration to either side submissions.

7. Before delving into the merits of the matter, while perusing the Judgment of the First Appellate Court, it is seen that the First Appellate Court has not complied the mandatory provisions contained in Order 41 Rule 31 of C.P.C. As per the above provision, the First Appellate Court has to determine the point for consideration, and the First Appellate Court being the last Court on facts has got a duty to re-appreciate the evidence in a proper perspective before arriving at a conclusion.

8. Apart from that it is the endogenous vestige of any order to have reason for such conclusion. On a harmonious reading of the order of the First Appellate Court, this Court could not find any reason for arriving such



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conclusion. Apart from that the First Appellate Court has only framed omnibus points for determination, as to, whether the appeal is liable to be allowed or not.

9. In the case on hand, on mere reading of the First Appellate Court's Judgment, this Court could not find any discussion in respect of each issues which was adverted by the Trial Court. To put it in other way, the order of the First Appellate Court is not supported with any reason and has not framed any point for determination.

10. Therefore, this Court is of the firm view that the order of the First Appellate Court is liable to be interfered with. Hence, the order of the First Appellate Court is set aside and this Court deem it fit to remit back the matter to the First Appellate Court for fresh disposal according to law by complying the Order 41 Rule 31 of C.P.C. As the suit is of the year 2008, the First Appellate Court is directed to dispose the first appeal within a period of four months from the date of receipt of the copy of this order.



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11. In the result, this second appeal is allowed by setting aside the Judgment and decree dated 04.06.2009 made in A.S.No.47 of 2008 on the file of the Subordinate Judge, Mannargudi, and the matter is remitted back to the first appellate Court for fresh disposal according to law, as indicated herein above. No order as to costs. Consequently, the connected miscellaneous petition is closed.

20.11.2023

smn

To

1. The Subordinate Judge, Mannargudi
2. The District Munsif Court, Mannargudi.



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C.KUMARAPPAN, J

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