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CRP No.2068 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2023

CORAM:

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.2068 of 2019
and CMP No.13350 of 2019

M/s Isha Homes India (Pvt) Limited
Represented by its Managing Director,
Mr.Suresh Krishn
having its Registered Office
at No.74, 1st Avenue, Indira Nagar,
Adyar, Chennai-600 020 and having
Their Corporate Office at 2nd floor,
E-29, 2nd Avenue, Besant Nagar,
Chennai-600 090

... Petitioner

Vs

M/s Penna Cements Industries Limited
Represented by its Managing (Marketing),
Mr.Prudentius Flix Gerald Henry,
Having their Branch office at
Zaret Garden, No.6, Casa Major Road,
Egmore, Chennai-600 008.

... Respondent

PRAYER: Civil Revision Petitions filed under Section 115 of Civil Procedure Code to set aside the fair and decreetal order passed in I.A.No.16856 of 2017 in O.S.No.4843 of 2017 dated 31.01.2019 on the file of XIII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.V.Vijay shankar
For Respondent : Mr.A.E.Ravichandran



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ORDER

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2. The plaintiff is the respondent in this civil revision. The plaintiff filed a suit for recovery of a sum of Rs.65,075/- together with interest at the rate of 24% p.a.

3. The case of the plaintiff is that it had supplied cements for the project, being executed by the civil revision petitioner/defendant. There was a short fall of Rs.65,075/- and consequently, the present suit is filed.

4. It is the case of the civil revision petitioner that the total transaction ran to Rs.5,68,07,626/-. During the course of transaction, the supplies made had damaged gunny bags, for which, debit notes were raised. The transactions commenced in May 2010 and full and final settlement were made on 03.08.2013. In order to substantiate the same, the petitioner had produced document No.2 before the trial Court, which is an e-mail whereunder, it has been pointed out that the debit notes are not given due credit to. However, the



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trial Court dismissed the application saying that the transaction has been admitted and therefore, there is no necessity to grant leave to defend.

5. Heard Mr.V.Vijay Shankar, learned counsel for the revision petitioner and Mr.A.E.Ravichandran, learned counsel for the respondent.

6. There is no dispute in the transaction that has taken place between the plaintiff and the defendant. The only dispute is in respect of reconciliation of accounts. Under such circumstances, the Court below should have seen that there is a triable issue viz., the presentation of accounts between the plaintiff and the defendant and the reconciliation thereof.

7. Both the plaintiff and the defendant are solvent Companies. Considering the defense raised, I am of the view that a conditional leave can be granted.

8. Accordingly, a sum of Rs.51,000/-(Rupees fifty one thousand only) be deposited by the Civil Revision Petitioner to the credit of suit in O.S.No.4843



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V.LAKSHMINARAYANAN,J.

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of 2017 on the file of XIII Assistant Judge, City Civil Court, Chennai within a period of eight weeks from today. On such deposit, the leave is granted.

9. The Civil Revision Petitioner shall file his written statement and suit in O.S.No.4843 of 2017 shall be disposed of thereafter.

10. In the result, the order passed in I.A.No.16856 of 2017 in O.S.No.4843 of 2017 dated 31.01.2019 is set aside and the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

01.08.2023

Index:Yes/No

Speaking order/Non-speaking order

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To

XIII Assistant Judge, City Civil Court, Chennai.

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