



Appeal (CAD) No.16 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

Appeal (CAD) No.16 of 2023

M/s.Jayam Enterprises,
rep. by its one of the Proprietors Rajeswari Jayakar,
21/8, Dr.Radhakrishnan Nagar,
Old Washermenpet,
Chennai-600 021.

.. Appellant

Vs

M/s. PA Sea Impex,
rep. by its Proprietor Parthiban,
No.232 (Old No.205) 3rd Floor,
Lingi Chetty Street, Parrys,
Chennai-600 001.

.. Respondent

Prayer: Appeal under Section 13 of the Commercial Courts Act read with Section 96 of the Civil Procedure Code, 1908 against the order dated 26.9.2022 made in I.A.No.1 of 2022 in C.O.S.No.576 of 2022 in O.S.No.7152 of 2021 on the file of the Commercial Court, Chennai.

For the Appellant : Mr.G.Shiji Mathew

For the Respondent : Mr.P.V.Sanjeev



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JUDGMENT

(Delivered by the Hon'ble Chief Justice)

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We have heard Mr.G.Shiji Mathew, learned counsel for the appellant and Mr.P.V.Sanjeev, learned counsel for the respondent.

2. The present appellant is the original plaintiff. The appellant had filed the suit for recovery of the amount against the respondent/defendant. The plaint is rejected, as it is barred by Section 69(2) of the Indian Partnership Act, 1932.

3. Learned counsel for the appellant submits that the defendant accepted that there is no privity of contract. This aspect ought to have been considered by the Court.

4. Learned counsel for the appellant does not dispute that the plaintiff is a partnership firm. The said partnership firm is unregistered. The plaint is filed for recovery of the amount on account of the goods supplied.



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5. The bar of Section 69(2) of the Indian Partnership Act, 1932, as such, is attracted. The trial court while dismissing the suit has properly considered the said aspect as the suit is barred by Section 69(2) of the Indian Partnership Act, 1932.

6. In the light of the above, the appeal is dismissed. The rejection of plaint would not come in the way of the appellant to avail the remedy as may be permissible under law. There will be no order as to costs.

(S.V.G., CJ.)

(P.D.A., J.)

29.09.2023

Index : Yes/No
Neutral Citation : Yes/No
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To:

The Sub Assistant Registrar
Commercial Cases
High Court, Madras.



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