



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Twenty Second day of June Two Thousand and Twenty
Three

PRESENT

The Hon`ble Mr.Justice P.VELMURUGAN

CMP(MD) No.9088 of 2019

IN

SA No.441 of 2003

M/S.ARASU RUBBER CORPORATION LTD,
REP BY ITS MANAGING DIRECTOR,
VADASERY, NAGERCOIL,
KANYAKUMARI DISTRICT.

... PLAINTIFF/APPELLANT/APPELLANT

Vs

KANYAKUMARI MARKET COMMITTEE
NAGERCOIL, REP BY ITS SECRETARY,
VADASERY, NAGERCOIL,
KANYAKUMARI DISTRICT.

... DEFENDANT/RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant leave to raise the additional substantial question of law in the Second Appeal.

PRAYER IN S.A.NO.441/2003 :

To prefer this Memorandum of Second Appeal against the Judgment and decree dated 27.09.2002 made in A.S.No.83 of 1999 on the file of the Principal District Court, Kanyakumari District at Nagercoil confirming the judgment and decree dated 31.03.1997 made in O.S.No.78 of 1990 on the file of the Principal Subordinate Judge at Nagercoil.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.M.AZEEM, Advocate for the petitioner and none appeared either in person or by an advocate on behalf of the Respondent the court made the following order:-

This petition is filed to grant leave to raise the additional substantial question of law in the second appeal.

2. When the matter was taken on on 16.06.2023, there was no representation on behalf of the petitioner/appellant. Hence, it is posted today for counter and disposal. Today, there is no representation for the respondent and he has also not filed counter. Heard the learned counsel for the petitioner.

3. The petitioner/appellant is the plaintiff in the suit in O.S.No.78 of 1990 on the file of the Principal Sub-Judge, Nagercoil.



While admitting the second appeal, this Court has formulated the following substantial question of law:

"When the activities of the plaintiff stand statutorily exempted under Section 6 of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act 27 of 1989, which would mean that the Marketing Committee cannot make any demand on the plaintiff for its operations, is not the plaintiff entitled to get reimbursement of the money collected by the said Marketing Committee in exercise of the power under the said Act 27 of 1989?"

4. The appeal is of the year 2003. After 18 years, the petitioner has filed the present petition to frame the additional substantial question of law.

5. A perusal of the entire materials would show that the substantial question of law sought to be framed has been covered by the substantial question of law already framed by this Court. The only question has to be decided by this Court is whether the appellant is exempted under Section 6 of the Tamil Nadu Agricultural Produce Marketing (Regulation) Act 27 of 1989. If he falls under the exemption under Section 6 of the Act, he is entitled to the benefit and the respondent has no authority to collect Market Fee.

6. The Court below has already decided that the petitioner is the agriculturist producer of raw rubber. However, they have to produce and market within the notified area. Whether the appellant falls under exemption of Section 6 of the Act, is to be decided. If he falls under the said exemption and he is entitled to get the relief, that can be decided on the substantial question of law already formulated by this Court. Therefore, this Court is of the opinion that the additional substantial question of law sought to be framed is covered by the substantial question of law already formulated by this Court. Hence, this petition is **dismissed**.

7. Further, the learned counsel for the petitioner/appellant would submit that the appeal is of the year 2003 and the suit is of the year 1990 and hence, the learned counsel requests to fix early hearing. Since there is no representation on behalf of the respondent, in order to give an opportunity to the respondent, post the second appeal on **27.06.2023**. No further adjournment will be given.

sd/-

22/06/2023

/ TRUE COPY /

26/06/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



CMP(MD)



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TO

1. THE PRINCIPAL DISTRICT JUDGE, KANYAKUMARI DISTRICT AT NAGERCOIL.

2. THE PRINCIPAL SUBORDINATE JUDGE, NAGERCOIL.

ORDER

IN

CMP (MD) No.9088 of 2019

IN

SA No.441 of 2003

Date :22/06/2023

RS/BUC/SAR-(26.06.2023) 3P 3C