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C.R.P.No.2215 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2215 of 2024

V.Rengadurai

... Petitioner

Vs.

1.B.Banumathi

2.R.Jaishree

3.Suganya Devi

... Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the plaint return order dated 12.01.2024 in O.S.No.168 of 2017 on the file of the Additional District Munsif Court, Tiruppur.

For Petitioner : Mr.K.Sudhakar

ORDER

This Civil Revision Petition has been filed seeking to set aside the plaint return order dated 12.01.2024 in O.S.No.168 of 2017 on the file of the Additional District Munsif Court, Tiruppur.



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2.The petitioner/plaintiff filed a civil suit in O.S.No.168 of 2017 before the District Munsif, Tiruppur against the defendants/respondents, who are legal heirs of one A.M.Balasanjeevi. The said Balasanjeevi and the petitioner herein had commenced a partnership firm in the name and style of M/s.Lakshmi Agencies to engage in the business of dealing in petrol, diesel and lubricant oil. In furtherance to the partnership firm, on 02.03.1987, the petitioner and the said Balasanjeevi obtained dealership of India Oil Corporation for the retail of petroleum products. On 05.08.2016, the said Balasanjeevi passed away and subsequent to the demise of Balasanjeevi, the petitioner approached the respondents to reconstitute the dealership. The respondents not cooperated to the same, in the meanwhile, the Indian Oil Corporation called upon the petitioner to submit documents for reconstitution of M/s.Lakshmi Agencies and issued notice to submit the documents on or before 28.02.2017, failing which, the dealership would be terminated. The petitioner thereafter approached the respondents and the respondents were not



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cooperative, hence, the petitioner sent a legal notice to the respondents on 20.04.2017, which was received by them on 21.04.2017. Thereafter, they had not responded to the legal notice. Hence, the present suit filed.

3.In the suit, the petitioner examined himself as PW1. The third respondent filed the written statement. Neither in the written statement nor during cross examination of the petitioner/plaintiff, there is nothing questioned with regard to the partnership, turn out of the business and any documents made by the respondent/defendant. For a Court question during cross examination on 12.01.2024, in which, the petitioner answered that for the purchase of petroleum products, in the year 2009 he paid Rs.10,00,000/- as the share in the business and he has got 55% business share in the partnership firm. For this reason, the trial Court on 12.01.2024 recorded as follows:

“Plaintiff present. Mr.M.Ramakrishnan, Advocate filed vakalat for plaintiff. I.A.No.737 of 2023 is closed. PW1 present. Suo



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motu reopened. PW1 cross examined in full. As per the deposition of PW1 during cross examination on 12.01.2024 the plaintiff has stated the 55 percent value of his share as per partnership deed is Rs.10 lakhs. PW1 was also admitted in Court question the value of his share in Lakshmi Agency is Rs.10 lakhs. Plaintiff side evidence closed for arguments. Hence, this Court has lost the pecuniary jurisdiction. Hence, this suit is hereby returned and the plaintiff is directed to represent the suit before proper Court within 10 days.”

4.From the plain reading of the plaint and the written statement filed by the defendant, it is seen that the petitioner's claim is only to declare the plaintiff as the proprietor of M/s.Lakshmi Agencies and to reconstitute M/s.Lakshmi Agencies as proprietorship concern. The Lower Court had given an interpretation that a sum of Rs.10 lakhs have been invested by the petitioner in the partnership firm and hence, the Court has got no jurisdiction and returned the plaint, which is not proper. In this case, Order VII Rule 10 not followed. The relief sought by the petitioner is only a declaration and not for monetary value and relief.



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5.In support of his contention, the learned counsel relied upon the following judgments of this Court, which are as follows:

(i) T.S.Sridharan and another vs. M.F.Simon & another reported in CDJ 2005 MHC 619; and

(ii) Dr.Arthur Nathaniel & another vs. Dr.R.P.Nathaniel reported in CDJ 1962 MHC 294.

6.In view of the same, the order passed in O.S.No.168 of 2017 dated 12.01.2024 by the learned Additional District Munsif, Tiruppur is set aside and the trial Court is directed to take the plaint on file and dispose of the case on its own merits considering that it is only a declaration suit.

7.With the above directions, the Civil Revision Petition is allowed.

No costs.

28.06.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

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Note: (i) Registry is directed to return the original papers.

(ii) Issue order copy on 02.07.2024.



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M.NIRMAL KUMAR, J.

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To

The Additional District munsif,
Tiruppur.

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