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C.R.P.(PD).No.3195 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.3195 of 2024
and C.M.P.No.17093 of 2024

M/s.P.A.Sea Impex,
Shipping, Clearing and Forwarding,
Rep. by its Prop S.Parthiban .. Petitioner

Versus

M/s.Eco Care Pest Control Service,
A Registered Partnership firm,
Rep. by its partner K.Sivakumar .. Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order, dated 19.07.2024 made in I.A.No.4 of 2024 in C.O.S.No.145 of 2023 on the file of Commercial Court, Egmore, Chennai by allowing the above Civil Revision Petition rejecting the plaint in the above suit C.O.S.No.145 of 2023 pending on the file of Commercial Court, Egmore, Chennai.

For Petitioner : Mr.P.V.Sanjeev



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ORDER

This Civil Revision Petition arises against the order passed by the learned Commercial Court, Egmore in I.A.No.4 of 2024 in C.O.S.No.145 of 2023, dated 19.07.2024.

2. C.O.S.No.145 of 2023 is a suit which has been presented for a recovery of a sum of Rs.29,74,003.75 together with interest at the rate of 15% per annum.

3. The case of the respondent/plaintiff is that it was providing pest control, fumigation and allied services for the petitioner/defendant. The petitioner/defendant is a shipping, clearing and forwarding agent at Chennai. According to the respondent/plaintiff, the goods which are meant for export had to be fumigated to avoid pests in the goods that are being exported. The respondent/plaintiff had provided these services to the petitioner/defendant from 01.01.2018 to 17.08.2020. They would plead that the total outstanding is Rs.27,99,062.75 ps after adjusting a sum of Rs.50,000/- that had been paid by the petitioner/defendant on 22.07.2020.



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7. I have carefully considered the arguments of Mr.P.V.Sanjeev and have gone through the records and the impugned order.

8. For the purpose of rejection of plaint, I have to go through the averments made in the plaint alone. The respondent/plaintiff has specifically pleaded that the amounts which are outstanding from the petitioner/defendant are on account of the continuous accounts maintained between the parties. If the accounts are continuously maintained between the parties, the period of limitation is as per Article 1 of the Limitation Act. It specifies a period of three years from the close of the year in which the last of the admitted or proved amount is entered in the accounts.

9. The averments made in the plaint make it clear that the last date of the payment was 22.07.2020. Therefore, the period of limitation will conclude in July, 2023. The suit, having been filed on 13.04.2023, would not be barred. It has been presented three months before the expiry period. This is only a *prima facie* finding based on the averments made in the plaint. It is always open to the petitioner/defendant to contest that the suit is not covered under Article 1 of the Limitation Act, but, each of the



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transactions are separate and distinct. Suffice it to say, for the purpose of disposal of this revision, I have to go only as per the averments in the plaint and since the plaint pleads that it is covered under Article 1 of the Limitation Act, I find the suit is filed in time. Therefore, I cannot take any exception to the order passed by the Commercial Court at Egmore in I.A.No.4 of 2024 in C.O.S.No.145 of 2023. The learned Judge has exercised her discretion and decided that the plaint should be on her file. The discretion that has been exercised being neither capricious nor arbitrary, I am not inclined to interfere with the same.

10. Consequently, this Civil Revision Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

09.08.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

The District Judge,
Commercial Court, Egmore,
Chennai.



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V.LAKSHMINARAYANAN, J.

grs

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