



C.R.P.(MD)No.326 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.326 of 2023
and C.M.P.(MD).No.1597 of 2023

1.M/s.Rathi Agencies, Vellicode
Rep. by its Proprietor,
Mrs. Ravi Bai,
No.26-19/C1,
Erattanvilai, Vellicode,
Mulagumoodu Village,
Kalkulam Taluk – 629 167,
Kanniyakumari District.

2.Mrs.Ravi Bai ... Revision Petitioners/
Counter Claimants/Defendants

Vs.

M/s.The Indian Cements Limited,
No.827, Anna Salai,
Chennai – 600 002,
Rep. by its Chief Manager. ... Respondent/Respondent/Plaintiff

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the docket order, dated 21.11.2022, passed by the learned Principal Subordinate Judge, Padmanabhapuram, in Commercial Original Suit in C.O.S.No.4 of 2023 in so far as the



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unnumbered counter claim presented along with the written statement and further for a direction, directing the learned Principal Subordinate Judge, Padmanabhapuram to proceed the same on merits for adjudication.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.N.S.Karthikeyan

ORDER

This civil revision petition has been filed to set aside the docket order, dated 21.11.2022, passed by the learned Principal Subordinate Judge, Padmanabhapuram, in Commercial Original Suit in C.O.S.No.4 of 2023 in so far as the unnumbered counter claim presented along with the written statement and further for a direction, directing the learned Principal Subordinate Judge, Padmanabhapuram, to proceed the same on merits for adjudication.

2.The facts in brief:

Suit in O.S.No.270 of 2021 was filed by the respondent herein as plaintiff namely M/s.The Indian Cements Limited, against the revision petitioners before the Principal District Judge, Kanniyakumari



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District at Nagercoil, seeking the relief of recovery of Rs.12,79,291/-
(Rupees Twelve Lakhs Seventy Nine Thousand Two Hundred and
Ninety One only.

2.The defendants namely the revision petitioners herein appeared and filed their statement along with counter claim, seeking the relief of direction to the plaintiff to pay a sum of Rs.38,47,220/- (Rupees Thirty Eight Lakhs Forty Seven Thousand Two Hundred and Twenty only) with interest. That counter claim was filed on 19.02.2022. In the meantime the main suit was transferred to the Principal Sub Judge, Padmanabhapuram, in view of the establishment of Commercial Courts Act and it was numbered as C.O.S.No.4 of 2022. Along with the plaint, the counter claim was also transferred to the Commercial Division. On 25.08.2022 in the main suit the defendants were set exparte. Consequently, counter claim also dismissed. Later petitions were filed in I.A.Nos.1 and 2 of 2022 to set aside the exparte order. Both petitions were allowed. Exparte order passed was set aside. Both the plaint as well as counter claim are restored. Reply statement was also filed on 07.11.2022. Later posted for framing of issues. At that time, doubt arose



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in the mind of the Court as to the jurisdiction of the counter claim. Since the counter claim exceeds its pecuniary jurisdiction, it thought it fit to return the same and returned. Against which, this revision has been preferred.

4.At the time of hearing both side counsel submitted that the suit as well as the counter claim may be tried by the Principal District Judge, Nagercoil, who is having commercial pecuniary jurisdiction.

5.In view of the above said submission made by both sides, the suit in C.O.S.No.4 of 2022 pending on the file of the learned Principal Sub Judge, Padmanabhapuram, is ordered to be transferred to the file of the learned Principal District Judge, Kanniyakumari District at Nagercoil. The counter claim which was returned is also ordered to be represented before the learned Principal District Judge, Kanniyakumari District by the revision petitioners. For that purpose the counter claim be returned to the revision petitioners for further steps, under proper acknowledgment. The learned Principal District Judge, Kanniyakumari District at Nagercoil shall taken up the matter and try the same.



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6. With the above said directions, this civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

12.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

1. The Principal District Judge, Kanniyakumari District at Nagercoil.
2. The Principal Subordinate Judge, Padmanabhapuram.
3. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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