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A.S.No.33 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 13.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

A.S.No.33 of 2022
and CMP.No.1588 of 2022

PURE SINE MAXSOLAR PVT LTD
Rep by its Director, MR.R.Sankara Subramanian,
Registered at, New No.5, Cross Street,
Kalyani, Srinagar Colony, Saidapet,
Chennai- 600 015

... Appellants

Versus

1. MADHVACHARI BOOVARAHAN KANNAN
S/O. Madhavachar Boovarahan,
Flat No.604, Dipesh Enclave,
Vasant Kunj, Pokhran Road
No.2, Near Lokpuram Pawar Nagar,
Thane, Apna Bazar, Maharashtra- 400 610

2. SYSTEMS AND SOLUTIONS
Rep by its CEO and Director,
Mr.Madhavachari Boovarahan Kannan,
S/o. Madhavachari Boovarahan,
No.10, Londe Mahal, Gokhale Raod,
Mulund East, Mumbai- 400 081

3. Veena Kannan
4.B.Sahana Kannan

... Respondents



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Prayer: Appeal filed under Section 96 of Code of Civil Procedure, to set aside the fair and decretal order dated 07.10.2021 passed in I.A.No.2 of 2019 in O.S.No.4171 of 2019 on the file of the learned XXI Additional Judge, City Civil Court at Chennai.

For Appellants : Mr.M.Arvind Subramanian, Senior Counsel
for Mr.A.Sathasivam

For Respondents : Mr.C.P.R.Kamaraj

JUDGMENT

Challenging the order of rejection of plaint made by the Trial Court on the ground that there was no cause of action, the present appeal came to be filed.

2. For the sake of convenience, the parties are arrayed to as per their own ranking before the Trial Court.

3. The suit has been filed for recovery of a sum of Rs.30 lakhs together with interest @ 24% p.a., It is the case of the plaintiff that they focused on establishing wax solar as strong brand across India. The company was started by R.Sankara Subramanian who has experience in the electronic component industry. Mr.Manian heads a strong team of professionals comprising of Dr.Ranganath Muthu, Dr.Padmapriya, Mrs.Veena Manian and Mr.Kamal Mandalekar. The first



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defendant claiming himself as CEO and Director of M/s.Systems and Solutions informed the plaintiff that KAICO-Kerala State Agro Industries Corporation are interested in installing Solar Power Plants in rural Kerala. Accordingly, the defendant received Rs.25 lakhs and memorandum of understanding was also executed on 27.04.2017. Similarly, another memorandum of understanding was executed on 28.04.2017 entered into between the parties, wherein, certain terms have been agreed upon by the parties. The first defendant also confirmed that a partial order for a value of Rs.5 crores and another Rs.30 crores would be released immediately by the KAICO, however, the amount transferred by the plaintiff was clandestinely transferred in the name of the defendants 3 and 4. Therefore, the plaintiff has filed the suit for recovery.

4. Application has been filed by the defendants under Order VII Rule 11 of CPC to reject the plaint on the ground that there is no cause of action and mis-joinder of parties. Further, there is no commercial or personal transactions between their firm and the plaintiff; the alleged sum was not transferred from the plaintiff company to the defendants firm account. The said application has been opposed by the plaintiff. The Trial Court however gone into the extent of holding

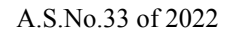


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that the amount has not been transferred by the plaintiff and there was no cause of action. Further, the Trial Court presumed that transactions are not genuine, are fraudulent and made only in order to get the order from Kerala Corporation. Hence, rejected the plaint. Challenging the same, the present appeal has been filed.

5. The learned counsel for the appellant submitted the plaintiff has to be rejected only on the grounds set out under Order VII Rule 11 of CPC, whereas, the Trial Court itself assumed certain facts without any foundational facts being established and rejected the suit. When the plaintiff has clearly explained the nature of transactions and cause of action which have been clearly set out in detail, as a matter of right, the Trial Court cannot presume itself as if such transactions are fraudulent transactions.

6. The learned counsel for the respondents submitted that there is no cause of action and mis-joinder of parties. Further, there is no commercial or personal transactions between their firm and the plaintiff; the alleged sum was not transferred from the plaintiff company to the defendants firm account. The Trial Court has rightly rejected the plaint, hence, seeks for dismissal of the appeal.



this appeal is as follows:

Point (i)

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action, therefore, the suit has to be rejected. The Trial Court has gone to the extent of holding that the transactions are not genuine, are fraudulent and only in order to get the order from Kerala Corporation, the amount has been sent, therefore, the suit cannot be maintained.

9. It is relevant to note that whether there are cause of action or not, the entire plaint has to be seen. The cause of action is bundle of facts, every facts pleaded in the plaint has to be seen. Therefore, by mere inference and presumption, the Trial Court cannot come to the conclusion that such transactions are fraudulent one without any foundational facts being established in this regard.

10. In *Saleem Bhai v. State of Maharashtra*, 2003 (1) SCC 557, it was held with reference to Order 7, Rule 11 of the Code that the relevant facts which need to be looked into for deciding an Application thereunder are the averments in the Plaint. For the purpose of deciding an Application under clauses (a) & (d) of Order 7, Rule 11 of the Code, the averments in the Plaint are germane.



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11. It is also relevant to note that whether the plaint has got cause of action or not has to be seen only in the context of the pleadings made in the plaint not by way of defence raised. When the pleadings of the plaint clearly shows that there are two memorandum of understanding, a written contract was entered into between the parties, circumstances also narrated how the money transferred to the defendants, it is premature for the Trial Court to come to the conclusion that such transactions are fraudulent one. Therefore, this Court is of the view that the very rejection of the plaint by the Trial Court cannot be sustained in the eye of law.

12. Accordingly, the impugned rejection of the plaint by the Trial Court is set aside and accordingly, this appeal is allowed. The Trial Court shall decide the suit on its own merits. No costs. Consequently, connected miscellaneous petition stands closed.

13.02.2025

Index : Yes / No
Speaking/non speaking order
dhk



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N. SATHISH KUMAR, J.

dhk

To,

The XXI Additional Judge,
City Civil Court at Chennai.

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