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C.R.P. (PD) .No.71 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.71 of 2025

and

C.M.P.No.647 of 2025

M/s.Srikals Graphics Pvt. Ltd.,
No.A-27, Sidco Industrial Estate,
Guindy, Chennai – 600 032.
Represented by its Director,
S.Kalyanasundaram

.. Petitioner

Vs.

M/s.Shanthi Corporation,
Office at New No.70 (Old No.29),
2nd Floor Sardar Patel Road, Adyar,
Chennai – 600 020.
Represented through its
Authorised Signatory
P.R.Sivakumar

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to allow the above CRP by setting aside the fair order and decreetal order passed by the learned Additional District Judge, Additional Commercial Court, Egmore, Chennai, in I.A.No.2 of 2024 in COS.No.137 of 2024 and to consequently reject the plaint in COS.No.137 of 2024.



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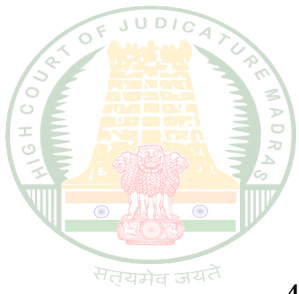
For Petitioner : Mr.T.Umasuthan

ORDER

This civil revision petition challenges the order passed by the learned Additional District Judge, Additional Commercial Court, Egmore, Chennai, in I.A.No.2 of 2024 in COS.No.137 of 2024, dated 18.12.2024.

2.The petitioner is the defendant in the suit.

3.COS.No.137 of 2024 is a suit for recovery of money. The claim of the plaintiff is that it is in the business of supplying wholesale paper board, art board and printing materials. The plaintiff claimed that it had made several supplies to the defendant, under commercial invoices, starting from 09.11.2019 till 04.02.2020. As there were defaults, it decided to approach the Court for recovery of money. Being a commercial transaction, it presented the suit before the Commercial Court at Egmore. As mandated under Section 12A of the Commercial Courts Act, 2015, pre-litigation mediation was commenced and as a “non-starter” report was presented on 11.01.2025, the suit came to be instituted.



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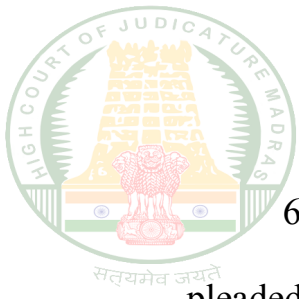
4.The plaintiff, even at the time of presentation of the plaint had enclosed a partnership registration certificate as plaint document No.2. The learned Commercial Judge considering the pleadings, took the suit on file as COS.No.137 of 2024. Since the suit was based on commercial invoices, it was presented as an Under Chapter suit.

5.On being served with the summons, the defendant took out an application for rejection of plaint. The plea of the defendant to reject the plaint was two-folded:

(i)The partnership firm is an unregistered firm and Section 69(2) of the Partnership Act, 1932 operates as a bar to the filing of the very suit and

(ii)It pleaded that an Under Chapter suit can be presented only when the suit is based on bills of exchange, hundis, promissory notes and on written contracts. In the present case, the suit documents relied on by the plaintiff are not negotiable instruments and are merely invoices.

Therefore, the defendant pleaded that the suit has to be rejected.



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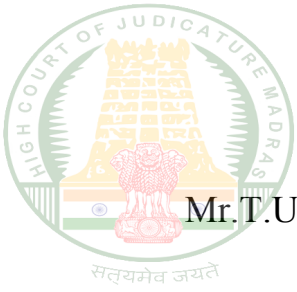
6.A counter was filed by the plaintiff in this application. The plaintiff pleaded that the firm is registered on the file of the Registrar of Firm, Madras North in Registration No.561 of 2009. Therefore, it stated that Section 69(2) of the Partnership Act, 1932 is not a bar for the suit. It further pleaded that under Order XXXVII Rule 2 of the Civil Procedure Code, a suit can be presented on the basis of invoices. The outstanding amounts payable in terms of the invoices comes to Rs.17,06,661/-, therefore, Order XXXVII Rule 1 of Civil Procedure Code is attracted.

7.On perusal of the affidavit and counter, the learned Judge agreed with the plea made by the plaintiff and dismissed the application for rejection of plaint filed by the defendant. Challenging the said order, this revision.

8.I heard Mr.T.Umasuthan for the civil revision petitioner.

9.Mr.T.Umasuthan reiterated the contentions that was placed by him before the Trial Court.

10.I have carefully considered the submissions made by



Mr.T.Umasuthan. I have gone through the records and the impugned order.

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11.I have to recollect that the settled principle of law for the purpose of rejection of plaint is, the averments made in the plaint and the documents filed therewith alone are relevant. No matter how sterling the defence that may be raised by the defendant, it is irrelevant, at the time of consideration of the application, under Order VII Rule 11 of the Civil Procedure Code.

12.A perusal of the plaint shows the plaintiff has specifically pleaded that supplies were made under several invoices and the payments that were made by the defendant were also irregular. In paragraph No.5 of the plaint, the plaintiff had set forth the details of the invoices, the opening account, the pending account and the total amount due from the defendant to the plaintiff. In addition, the plaintiff has also produced the partnership registration certificate as document No.2.

13.Order XXXVII applies to suits where the plaintiff seeks to recover the debt arising on a written contract with or without interest. The supply of



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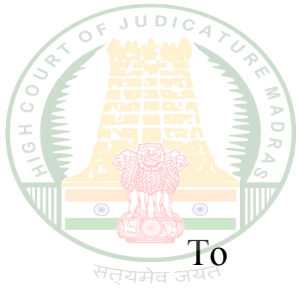
materials on the basis of invoices is a written contract. Whether the supplies were actually made by the plaintiff and consumed by the defendant is a matter for evidence. The plaintiff specifically pleads that supplies were made and there were defaults by the defendant in the payment. That being the situation, I am not in a position to take a different view than the one taken by the learned Additional District Judge, Additional Commercial Court, Egmore, Chennai. The averments made in the plaint are sufficient to attract the provisions of Order XXXVII of the Civil Procedure Code and since the Firm has been registered in 2009, both the points taken in the rejection of plaint application fail.

14. Accordingly, C.R.P.(PD).No.71 of 2025 is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

23.01.2025
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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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To

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The Additional District Judge,
Additional Commercial Court,
Egmore, Chennai.

V.LAKSHMINARAYANAN, J.

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