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C.R.P.(PD) No.1423 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.04.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD) No.1423 of 2025
and CMP.No.8382 of 2025

M/s.Ashmitha Yarns, by Proprietrix,
A.Mangayarkarasi
Rep by her Power Agent and Son
A.Kalaiyarasu
57, Thillai Nagar
Erode - 638 001.

... Petitioner / Plaintiff

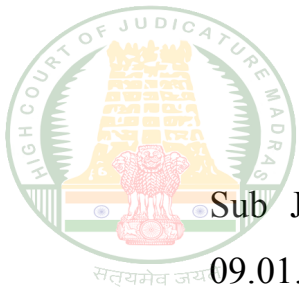
Vs.

1.M/s.Raju Tex, by its Proprietor
M.Palanisamy
2/140A, Thokkavadi Post
Tiruchengode - 637 209.

2.The Proprietor
M/s.SRM Sizing Mills
84, Pallipalayam LOA Bunk Backside
Rajagoundampalayam, Suriyampalayam Post
Tiruchengode Taluk, Namakkal District.

... Respondents / Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order passed by the learned II Additional



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Sub Judge, Erode in I.A.No.6 of 2024 in O.S.No.234 of 2018 dated 09.01.2025, by allowing the civil revision petition.

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For Petitioner : Mr.P.Kannan Kumar

ORDER

Challenging the order dismissing his application in I.A.No.6 of 2024 in O.S.No.234/2018 by the learned II Additional Subordinate Judge, Erode the plaintiff has filed the above civil revision petition.

2. The facts that led to the filing of the present revision petition are briefly set out herein below. The parties are referred to the same ranking as before the trial Court:

- a. The plaintiff has filed the suit in O.S.No.234 of 2018 before the II Additional Subordinate Court, Erode, for recovery of sum of Rs.4,24,186/- together with future interest at 24% per annum from the date of the suit till the date of realization on the sum of Rs.4,00,680/-.
- b. The plaintiff is stated to be engaged in yarn trading business. Based on the message received from the agent of the first defendant requiring the plaintiff to supply yarn and the consignment to be shipped to the address of the second defendant, the plaintiff had



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effected the supply. The invoice was sent to the first defendant on 30.11.2017 through registered post, which the first defendant had refused to receive.

- c. The plaintiff would allege that the amount due towards the supply of yarns is Rs.4,00,680/-. The contention of the plaintiff is that despite the demands to pay the said sum, the first defendant has not come forward to clear the dues. Even the legal notices sent by the plaintiff, did not evoke any response from the first defendant, the plaintiff was constrained to file the aforementioned suit.
- d. The written statement was filed by the first defendant denying the claim that he is no way connected with the said transaction and with an ulterior motive to extract the money, the suit came to be filed. Hence, he seeks dismissal of the suit.
- e. When the cross-examination of the plaintiff had been concluded, the plaintiff had come forward with an application under Order VII Rule 14(3) of CPC., seeking leave to produce certain documents which has been listed out in the annexure to the petition and to mark the same as exhibits.
- f. The plaintiff would submit that these documents could not be filed in



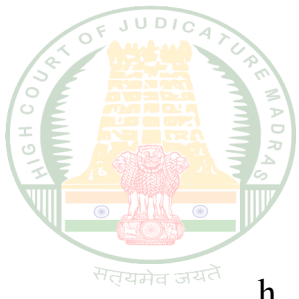
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time when the parties were directed to give their list of documents.

The documents that are sought to be produced are the original day book maintained by the plaintiff, acknowledgment for income tax return for the year 2018-2019 and Form No.3CD certified by the plaintiff's auditor. He would submit that he is neither negligent nor careless, and the reason for not producing these documents earlier, was beyond his control. Therefore, the plaintiff sought to have these documents produced.

- g. The first defendant/first respondent had filed a counter *inter alia* opposing the said application. The defendant would submit that the suit was filed in the year 2018 and the plaintiff was examined in chief on 16.03.2021, and was cross-examined on 13.09.2021. The defendants would contend that during the cross-examination, they were able to elicit admissions on the side of the plaintiff, and the evidence was closed nearly three years back. Further, the documents in question were also not relevant to the issue on hand and these documents does not find a mention in the plaint pleadings. They would also contend that the documents which are now sought to be marked, are fabricated ones and it is an attempt by the plaintiff to fill



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up the lacunae.

- h. The learned II Additional Sub Judge, Erode, by his order dated 09.01.2025, has dismissed the said application on the ground that the documents now sought to be introduced in the plaint has no reference in the suit and was filed much belatedly. That apart, the learned Judge has observed that no proper and sufficient reasons were given by the plaintiff to consider his application.
- i. Challenging the same, the revision petitioner/plaintiff is before this Court.

3. Heard the learned counsel for the revision petitioner.

4. The suit is one for recovery of money on the basis of certain supplies that have been effected, for which documents have been filed along with the plaint. The petitioner/plaintiff now seeks to file three additional documents through the impugned application in I.A.No.6/2024. However, in the affidavit filed in support of this application, there is absolutely no whisper as to why the documents now sought to be produced, have not been referred to in the plaint. The documents which are now sought to be



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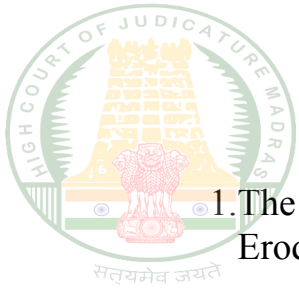
produced are the original day book maintained by the plaintiff, acknowledgment for income tax return for the year 2018-2019 etc., and these documents do not find a mention in the pleadings. The defense raised in the written statement of the first defendant is that he is no way connected with the alleged transaction between the plaintiff and others. The first defendant would submit that they are totally strangers to the entire transaction. Further, the plaintiff's evidence was closed as early as in the year 2019. The present application appears to be an attempt to fill up the lacunae by producing these documents. The trial Court has elaborately stated how the petition is not maintainable and the documents cannot be permitted at this stage. I see no reasons to disagree with the same.

5. The civil revision petition is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.04.2025

Index : Yes / No
Neutral Citation : Yes / No
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To:



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1. The II Additional Sub Judge
Erode.

2. The Section Officer
VR Section, High Court, Madras.



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P.T. ASHA, J.

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