



S.A.No.1063 of 2019 and C.M.P. No.22858 of 2019

**WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS**

|                      |                   |
|----------------------|-------------------|
| <b>Reserved on</b>   | <b>03.07.2025</b> |
| <b>Pronounced on</b> | <b>18.07.2025</b> |

**CORAM**

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

**S.A.No.1063 of 2019 and**  
**C.M.P. No.22858 of 2019**

T. Senthil Prasad

...Appellant

**Vs.**

M/s. Sri Sastha Enterprises  
Represented by its Proprietor  
K. Jayakumar,  
S/o. D. Kothandan,  
41, Singara Mudali Street,  
D.R.R. Nagar,  
Karayanchavadi  
Chennai 600 056

... Respondent

**Prayer** : Second Appeal filed under Section 100 CPC, 1908 against the judgment and decree dated 08.02.2019 made in A.S. No.14 of 2015 on the file of the learned Principal District Court, Tiruvallur, confirming the judgment and decree dated 20.07.2011 made in O.S. No.130 of 2007 on the file of the learned Sub Court, Poonamallee.



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WEB COPY For Appellant : Mr. N. Manoharan  
For Respondent : Mr. G. Janakiraman

### **JUDGMENT**

In this Second Appeal challenge is made to the judgment and decree dated 08.02.2019 passed in A.S. No.14/2015 on the file of the Principal District Court, Tiruvallur, confirming the judgment and decree dated 20.07.2011 passed in O.S. No.130 of 2007 on the file of the Sub-court, Poonamallee.

2. The Second Appeal has been admitted on the following substantial question of law.

*"Whether the lower courts below were right in foisting the liability on the appellant when admittedly the purchaser is an independent proprietorship concern owned by Mr.M.V.Sellamuthu?"*



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**WEB COPY** 3. For the sake of convenience, the parties are referred to as per their ranking in the trial court.

4. The plaintiff laid a suit against the defendant for recovery of money directing the defendant to pay a sum of Rs.1,15,596/- to the plaintiff with interest at the rate of 12% per annum on Rs.1,02,615/- from the date of plaint till the date of realisation.

5. Briefly stated, the plaintiff is a stockist and distributor of Satin Tape, Buttons and its accessories. The defendant has given purchase orders to the plaintiff on various dates and is liable to pay a sum of Rs.1,02,615/-. In spite of several demands made by the plaintiff, the defendant has not come forward to make the payment. Hence, the plaintiff issued a legal notice (Ex.A13) dated 12.09.2007 to the defendant demanding to pay the said amount, for which reply notice (Ex.A14) dated 24.09.2007 was sent by the defendant stating that he is not concerned with the MVS exports and has not placed any purchase orders. According to the plaintiff, the defendant himself has signed in the

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purchase orders and that only with a view to defraud the plaintiff, the defendant alleged so. Hence, he prayed to decree the suit in his favour.

6. The defendant, in his written statement, resisted the claim of the plaintiff by stating as follows:

- i. The allegations are false.
- ii. The defendant is not concerned with MVS exports and he is having his business in the name and style of 'Active Apparels'.
- iii. MVS Exports and Active Apparels are two different proprietorships and are managed by two different proprietors.
- iv. Actually one Chellamuthu is the proprietor of MVS Exports.
- v. The suit is bad for non joinder of necessary party.

Hence, it is contended that the suit is liable to be dismissed.

7. On the basis of the materials placed on record and appreciating the same, the courts below were pleased to decree the suit in favour of the plaintiff. Impugning the same, the present Second Appeal has been preferred by the defendant.



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8. Heard on both sides and perused the records.

9. Mr. N. Manoharan, learned counsel appearing for the appellant submits that the plaintiff had transactions only with M.V. Chellamuthu, proprietor of MVS Exports. The appellant has produced Ex.B10 and Ex.B11 to show that one M.V. Chellamuthu is the proprietor of M/s.MVS Exports and whereas the suit has been filed against the appellant/defendant, who is the proprietor of M/s. Active Apparels. Even in the reply notice (Ex.A14) dated 24.09.2007, the appellant/defendant had denied his liability and also disputed the identity with M/s. MVS Exports. In spite of that, the plaintiff has not filed any application to amend the plaint and continued to prosecute the litigation against the present appellant. He would submit that the actual transactions of the plaintiff are with MVS Exports, who used to place work orders to M/s.Active Apparels. In view of the same, the appellant's name has been misquoted as an authorised signatory in the purchase order marked as Ex.A1. He further submits that both the courts below miserably failed to

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WEB COPY apply the concept of lifting of corporate veil. When the sole proprietor of MVS Exports is Chellamuthu and not the appellant, a wrong decree has been passed against the appellant under mistaken identity.

9.1. The further contention of the counsel is that the trial court has erroneously come to a conclusion that there is no need to include M.V.Chellamuthu, who was only a sleeping proprietor. The said conclusion is against the public records marked as Ex.B10 and Ex.B11. He would also submit that mere purchase order is not sufficient to grant a decree; that the materials placed under Ex.A1 has nothing to do with the invoices/delivery notes marked as Ex.A2 to Ex.A11 and that mere admission of signature found in Ex.A1 does not tantamount to admission of liability in the absence of legal presumption under the law for the time being in force. It is further submitted that there is nothing on record to show that the materials placed under Ex.A1 were delivered to the appellant/defendant. It is also submitted that the very description of defendant is not in compliance with Order 30 Rule 10 CPC and that no law permits to grant decree against an authorised signatory unless the

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proprietor or partner of a firm, or director of a company has been made as a party defendant. In support of his contentions, he relied on the following judgments.

- 1. *Raghu Lakshminarayanan vs. Fine Tubes* reported in (2007) 5 Supreme Court Cases 103.**
- 2. *Ashok Transport Agency vs. Awadhesh Kumar and another* reported in (1998) 5 Supreme Court Cases 567.**

Hence, the learned counsel for the appellant prayed for setting aside the judgment and decree dated 08.02.2019 made in A.S. No.14/2015 on the file of the learned Principal District Court, Tiruvallur, confirming the judgment and decree dated 20.07.2011 made in O.S. No.130 of 2007 on the file of the learned Sub Court, Poonamallee.

10. *Per contra*, Mr. G. Janakiraman, learned counsel for the respondent/plaintiff contended that both the courts below, after analysing the evidence on record, rendered a concurrent finding and therefore, there is no need for this Court to interfere with the same.



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**WEB COPY** 11. It is not in dispute that the plaintiff company supplied materials to M/s. MVS Exports having its office at Salem, under Ex.A1 purchase order dated 26.12.2006 in which the appellant T.Senthil Prasad, has affixed his signature in the capacity of authorised signatory for MVS Exports. Even in the foot note of Ex.A1, it is mentioned that the goods to be delivered to Active Apparels having its address at Nerkundram, Chennai. On the side of the appellant/defendant it is contended that the said Senthil Prasad is not the proprietor of M/s. MVS Exports and non inclusion of the actual proprietor Mr. Chellamuthu in the above suit is fatal to the claim of the plaintiff. In the written statement as well as in the evidence of D.W.1, it is made clear that the plaintiff company delivered the goods as per the purchase order which was signed by the appellant in the capacity of authorised signatory. It is also admitted by D.W.1 that the said Chellamuthu did not sign in Ex.A1. Furthermore, Ex.A12 e-mail was sent by one K. Raman of the plaintiff company to the defendant on 02.06.2007. The said K. Raman was examined as P.W.2. and he deposed about the placement of purchase order by the defendant Company, delivery of goods and the failure on the part of the defendant

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WEB COPY company to pay the amount. If really the appellant is not at all connected with MVS Exports, there is no need for him to place the purchase order to the plaintiff company and signed the same in the capacity of authorised signatory. Therefore, by marking Ex.B10 and Ex.B11, the appellant cannot be absolved from the liability to pay the due amount to the plaintiff company. Having placed the purchase order and having received the goods from the plaintiff company, the claim of the defendant that he is not connected with M/s.MVS Export and it is only Mr.Chellamuthu who is liable to pay the amount, cannot be accepted. Therefore, the courts below have rightly decided that it is only the appellant/defendant, as an authorised signatory of MVS Exports, placed the purchase order under Ex.A1 and the goods were delivered under Ex.A2 to Ex.A11 only to the defendant company, namely, Active Apparels and that the defendant alone is liable to pay the amount to the plaintiff and accordingly decreed the suit. I do not find any perversity, irregularity or material error in the concurrent findings reached in the above suit, warranting interference under Section 100 of the Code of Civil Procedure.



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WEB COPY 12. For the above reasons, the substantial question of law is answered against the appellant.

13. In the result,

- i. The Second Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.
- ii. The judgment and decree dated 08.02.2019 made in A.S. No.14 of 2015 on the file of the learned Principal District Court, Tiruvallur, confirming the judgment and decree dated 20.07.2011 made in O.S. No.130 of 2007 on the file of the learned Sub Court, Poonamallee, is upheld.

18.07.2025

Index: Yes/No  
Internet: Yes/No  
Speaking/Non-Speaking order  
bga



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WEB COPY To

1. The Principal District Judge, Tiruvallur.
2. The Subordinate Judge, Poonamallee.
3. The Section Officer, VR Section, High Court, Madras.



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**K.GOVINDARAJAN THILAKAVADI,J**  
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