IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	22.07.2025
Pronounced on	19.09.2025

Coram:

The Honourable Mrs.Justice K.GOVINDARAJAN THILAKAVADI

Second Appeal No.201of 2019

M/s.Meera Electricals
Rep, by its Partner,
C.Madhanmohan
No.911, Avinashi Road,
Coimbatore-641 018

.. Appellant

versus

1.M/s.Classic Towers Pvt. Ltd.,
Rep., by its Managing Director,
Classic Garden,
1552, Trichy Road,
Coimbatore-641 018

2.A.Anwar

.. Respondents

Prayer: Second Appeal is filed under Section 100 CPC, praying to set aside the judgment and decree dated 24.01.2006 made in A.S.No.172 of 2005 on the file of learned III Additional Subordinate Judge, Coimbatore, confirming the judgment and decree dated 12.04.2005 made in O.S.No.3119 of 2004 on the file of Principal District Munsif, Coimbatore.

For Appellant : Mr.S.Thangavel

For Respondent : No appearance for R1 and R2

JUDGMENT

Challenging this Second Appeal against the judgment and decree dated 24.01.2006 made in A.S.No.172 of 2005 on the file of learned III Additional Subordinate Judge, Coimbatore, confirming the judgment and decree dated 12.04.2005 made in O.S.No.3119 of 2004 on the file of Principal District Munsif, Coimbatore.

2.The plaintiff is the appellant herein. The plaintiff has filed the above suit for recovery of money directing the defendant's to pay a sum of Rs.60,843.08/- being the principle and interest due from the defendant with future interest at the rate of 24% per month at Rs.37,769/- from the date of filing of the suit till the date of realization.

2.1. The case of the plaintiff is that the plaintiff is the dealer in electrical goods and the 1st defendant is a company registered under Indian Companies Act. The 2nd defendant is the Managing partner of the 1st defendant's company.

2.2. The defendants placed purchase orders with the plaintiff for supply of electrical goods. The plaintiff effected supplies in pursuant to the purchase orders and raised invoices for such supplies. The defendants failed to pay the invoice amounts aggregating to Rs.60,843.08/-. Inspite of several repeated demands by the plaintiff, the defendants failed to settle the accounts. The plaintiff issued a statutory notice on 17.12.1997 demanding payment of the amount due with interest and the same was not received by the defendants. Hence, the suit for recovery of the amounts due.

3.The claim of the plaintiff is resisted by the defendants stating that the defendants are not liable to pay the suit amount and the interest as claimed in the suit. The statement of accounts filed by the plaintiff is incorrect. There is no privity of contract between the plaintiff and the defendant for payment of interest. The 2nd defendant admits that he has purchased certain electrical goods from the plaintiff but the value detailed in the bills are excessive. The plaintiff charged abnormal rates for every goods supplied by him, which is 25 % more than market value. When the same was informed to the plaintiff, the plaintiff agreed to reduce the amount, but it was not done. Hence, the defendant is not liable to pay the suit claim.

4.The trial Court accepted the contention of the defendants and accordingly dismissed the suit against which the appeal suit in A.S.No.172 of 2005 was filed before the 1st Appellate Court and the same was also dismissed, confirming the judgment and decree passed by the trial Court. Aggrieved by this, the present second appeal is filed under Section 100 of

CPC.

5.The learned counsel appearing for the appellant/plaintiff submits that the 1st respondent/1st defendant is liable to pay the amount mentioned in the invoices under Ex.A2, A3 & A4 towards the goods supplied to them by the appellant/ plaintiff and the above invoices are based on the purchase orders placed by the 1st respondent/1st defendant under Exs.A.9 & A13 and A14. His further submission is that the above documents marked as A2, A3 & A4 were rejected by the Courts below, for not producing the account book and for non-examination of the accountant of the appellant/plaintiff. The Courts below also rejected the documents marked as A9,A13 & A14 (Purchase orders) on the ground that handwriting found in A.9, and A14 are different and that they could have been written by different persons for the 1st respondent. The above findings of the Court below are erroneous for the reason that based on the purchase orders made under Exs.A9, A13 & A14 goods were supplied to the 1st respondent under Ex.A2, A3 & A4 and moreover, there is no need to file the ledger book of the appellant/plaintiff.

His further contention is that there is no need to examine Accountant of the appellant/plaintiff to prove the invoices under Ex.A2, A3 & A4. His further contention is that in a commercial transaction, parties are entitled to claim 24% interest and that the decision in ***2001 1 LW 293*** relied upon in the Courts below is not applicable to the facts and circumstances of the case on hand.

6. Despite notice, the respondents remained absent.

7.Heard learned counsel for the appellant.

8. The following question of law is formulated in this second appeal:

> *Whether the Courts below were right in rejecting the invoices Ex.A2, Ex.A3 and Ex.A4 for the goods supplied merely on the ground of non-examination of the accountant and for non-production of the account book?"*

9.The Courts below non suited the plaintiff for non examination of the accountant and for non production of the account book as required under Section 34 of Indian Evidence Act, 1872, to prove the transactions between the plaintiff and the defendants.

10.It is the specific case of the plaintiff that, the defendants have purchased certain electrical goods on credit and as per Exs.A2 to Ex.A4 invoices, the defendants are liable to pay a sum of Rs.60,843.08/- to the plaintiff. The 1st defendant admits that he has purchased certain electrical goods from the plaintiff but he did not admit that he has purchased goods for the value detailed in Ex.A2 to Ex.A4 invoices. Hence, the defendants are not liable to pay the suit claim. The further contention of the defendants in their written statement is that the plaintiff was charging abnormal rates for the goods supplied, which is 25% excess of the market value and when the same was informed to the plaintiff, he agreed to reduce the sale price. When the 2nd defendant admits that he has purchased certain electrical goods from the plaintiff, and denies the values mentioned in the invoices are correct, it is for the plaintiff to establish that the values mentioned in the invoices are true. In the case on hand, the plaintiff was cross examined at length. The witness admitted that document Ex.A1 is the statement of accounts, Ex.A2 to Ex.A4 are invoices, Exs.A9, A13 & A14 (purchase orders) and Exs.A5 to A.8, A.10, A.11, A12 & A15 are notices, returned covers and communications sent to the defendants.

11.The 1st defendant examined himself as D.W1. He does not admit that he has purchased goods for the value detailed in the above bills. Therefore, he claims that he is not liable to pay the suit claim.

12.An invoice formally requests payment for the goods or services after they have been provided and accepted. In legal matters, an invoice provides essential details, such as the specific items delivered, the agreed-upon prices, and the total amount due, which helps to substantiate a financial claim. Moreover, invoices, are considered crucial documents in financial and legal disputes because they can be used as evidence of the transaction and the debt owed by the buyer. Courts have emphasized that an invoice, in conjunction with other documents like purchase orders, account books and proof of receipt is vital for establishing the authenticity and reality of a transaction. Therefore, an invoice serves as a critical proof of payment request and proof of delivery. At the same time, once the defendant accepts or signs the purchase order, it becomes a legally binding contract between both parties, obligating them to uphold its terms, unless there is a dispute about what was delivered and for what price. It has been averred in the written statement filed by the defendant that he has purchased certain electrical goods from the plaintiff. But the value detailed in the invoices are incorrect. The further averment is that the defendant has made several payments to the plaintiff and after deducting the same the plaintiff has come forward to claim an excess amount from the defendant. The Courts below adverting to Section 34 of the Indian Evidence Act, 1872 have concurrently held that unless, the accountant of the plaintiff is examined and the account books are produced for comparison, the value detailed in the invoices cannot be accepted. It is no doubt that the burden of proof lies on a person making any claim or asserting any fact.

13.Before proceeding further it would be appropriate to recapitulate the law on the subject.

14.Section 34 of the Indian Evidence Act, 1872 deals with relevancy of entries in books of account including those maintained in an electronic form when relevant. It reads as under:

> "34. *establishes that entries in books of accounts, including electronic ones, are relevant if they were regularly kept in the course of business and pertain to a matter under court inquiry. However, these entries alone are not sufficient to prove liability. They serve as corroborative evidence and must be supported by other evidence, such as invoices or documents of the transaction, to establish a person's liability."*

15.Section 34, is an exception to Section 21 which provides that a person cannot make evidence for him, provides that entries in books of account including those maintained in an electronic form regularly kept in the course of business, by a person, alive or dead, or relevant, whenever they refer to a matter into which the Court has to require. It is not sufficient to charge any person with liability unless some independent evidence is given. The evidentiary value of entries of account book depends on corroboration by other evidence despite entries are regularly kept and maintained by writer who has full knowledge, no motive to falsehood, and there is the strongest improbability of untruth. The original entries alone under Section 34 would not be sufficient to charge any person with liability. The corroborative evidence must have minimum probative value. This corroborating evidence might be in any form like receipts, voucher, bills or even oral evidence of witnesses having personal knowledge of the affairs of the transaction. The veracity of account book cannot be doubted on ground that day books supporting ledger entries and person who made said entries in ledger books were not produced. ***[Ref: Ishwar Dass Jain Vs. Sohan Lal,*** reported in ***AIR 2000 SC 426].***

16.In the case relied upon by the Courts below, the 1st defendant in that case raised a plea that no orders were placed on to the plaintiff therein for supply of goods during the relevant period. The plaintiff therein marked the account books as exhibit to prove placing of order by the plaintiff and supply of goods. Hence, it was held that, account books by themselves are not sufficient to charge any person with liability. Entries in account books should be proved to be real and honest transaction by adducing independent evidence. Since the plaintiff therein failed to examine person who made entries in account book as witness and person who dealt with receipts and payments was also not examined as witness and therefore, the Court held that, mere production of account books is not sufficient to establish transactions entered in books as contemplated under Section 34 of the Indian

Evidence Act, 1872. But in the present case, the plaintiff has produced the purchase orders and the invoices along with the statement of accounts to substantiate its claim.

17.The defendants can dispute and argue the accuracy of an invoice because it does not reflect the agreed upon terms. In the present case, the 1st defendant in fact disputed the purchase order and the invoices. However, the defendants failed to present concrete evidence to support these claims, such as written complaint about non-issuance of purchase order and that the value detailed in the invoices are incorrect. The defendants failed to establish that the purchase orders were not issued by the defendants. In fact, the 1st defendant in the written statement admits that he has purchased certain electrical goods from the plaintiff but denied the value detailed in Bill No.46479 dated 20.12.1994, Bill No.47443 dated 15.06.1995 and Bill No.47583 dated 06.07.1995 marked as Ex.A2 to A4 respectively. The further contention of the 1st defendant is that he had made several payments to the plaintiff and after deducting the same, the plaintiff has come forward to claim excess amount from the defendant. The 1st defendant also submits that the plaintiff had charged heavy rates i.e more than 10% to 25% than the market value and when he informed about the high rate of charge, the plaintiff agreed to reduce the amount for each and every bill, but failed to do so. Nowhere, the defendants have stated that, the purchase orders were not issued by him and that the invoices are fake. Moreover, there is no evidence on record to show that the defendants informed the plaintiff about the excessive charge and the value detailed in the bills are excessive. The defendants must clearly demonstrate the specific discrepancies in the value detailed in the invoices.

18.It is well settled that a purchase order is a buyer's request, while an invoice is a seller's request for payment after goods or service are provided. A purchase order can become a legally binding contract, whereas, the invoice serves as a legally binding document providing evidence of the agreed terms of the transaction and the amount a buyer owes, offering legal protection to both parties in case of disputes i.e., in case of legal disputes. An invoice is used to substantiate claims regarding delivered goods and payment due. It provides essential documentation of what was sold and the price for the transaction.

19. Further, the issues in civil cases are to be decided on the scale of preponderance of probabilities. The doctrine of preponderance of probabilities was discussed in the judgment of ***Dr.N.G.Dastane Vs. Mrs. S.Dastane*** reported in ***AIR 1975 SC 1534*** reads as under**:**

> *"24.The normal rule which governs civil proceedings is that a fact can be said to be established if it proved by a preponderance of probabilities. This is for the reason that under the Evidence Act, Section 3, a fact is said to be proved when the court either believes it to exist or considers its existence so probably that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. The belief regarding the existence of a fact may thus be founded on a balance of probabilities. A prudent man faced with conflicting*

probabilities concerning a fact-situation will act on the supposition that the fact exists, if on weighing the various probabilities he links that the preponderance is in favour of the existence of the particular fact. As a prudent man, so the court applies this test for finding whether a fact in issue can be said to be proved. The first step in this process is to fix the probabilities, the second to weigh them, though the two may often intermingle. The impossible is weeded out at the first stage, the improbable at the second. Within the wide range of probabilities the court has often a difficult choice to make but it is this choice which ultimately determines where the preponderance of probabilities lies. Important issues like those which affect the status of parties demand a closer scrutiny than those like the loan on a promissory note : "the nature and gravity of an issue necessarily determines the manner of attaining reasonable satisfaction of the truth of the issue "Per Dixon, J. In Wright v. Wright (1948) 77 C.L.R. 191 at p. 210; or as said by Lord Denning, "the degree of probability depends on the subject-matter."

20.In the present case, the plaintiff through oral and documentary evidence has established his claim. The initial burden of proof is discharged by the plaintiff. Now, the onus shift on the defendants, to disprove the case of the plaintiff. But, the defendants failed to lead any evidence to prove that the values detailed in the invoices are excessive. The defence set up by the defendants is on the basis of Ex.B1 and Ex.B2 alone. There is nothing on record to show that the value detailed in the invoices is incorrect was communicated to the plaintiff. Only for the first time in the written statement the above issues were raised. It is relevant here, before appreciation of evidence and deciding the issues, the position of law is that the onus of proof in civil trial is the obligation on the plaintiff that the plaintiff would adduce evidence that proves his claims on preponderance or probability against the defendant. As the fact of purchasing the goods from the plaintiff is admitted by the defendants and failed to discharge that the value detailed in the suit invoices and to bring on record the preponderance of probabilities by reference to the circumstances upon which he relies, the plaintiff in such an event is entitled under Law to rely upon all the evidence led in the case including that of the plaintiff as well. The standard of proof evidently is preponderance of probabilities. Inference of preponderance of probabilities can be drawn not only from the materials on record but also by reference to the circumstances upon which the plaintiff lies. The object of the judicial process is to find the truth from the pleadings, documents and the evidence led before the Court. The Courts below without analyzing the above in a proper perspective way dismissed the suit filed by the plaintiff. Therefore, the plaintiff is, certainly entitled to recovery of the suit amount. Since, there is no contract between the parties in respect of interest, the plaintiff is entitled to the suit claim with subsequent interest at the rate of 6% from the date of plaint till the date of realization.

21. In the result,

(1) The Second appeal is allowed. No costs.

(2) The judgment and decree dated 24.01.2006 made in A.S.No.172 of 2005 on the file of learned III Additional Subordinate Judge, Coimbatore, confirming the judgment and decree dated 12.04.2005 made in O.S.No.3119 of 2004 on the file of Principal District Munsif, Coimbatore is set aside.

19.09.2025

vsn

Index: Yes/No
Speaking order / Non-speaking order

To

1.The III Additional Subordinate Judge, Coimbatore,
2. The Principal District Munsif, Coimbatore
3.The Section Officer, VR Section, High Court, Madras.

K.GOVINDARAJAN THILAKAVADI,J.

vsn

Pre- delivery judgment made in
Second Appeal No.201of 2019

19.09.2025