

**IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, TIRUPPUR**

**Present:- Thiru. N. Gunasekaran, M.B.A., B.L.,  
Principal District Judge, Tiruppur**

Thursday, the 03<sup>rd</sup> day of October, 2024

**I.A. No. 04/2024 in**

**COS No.15/2024**

(CNR No.TNTI18 002211 2024)

1. M/s. N.R.U. Spinning Mills Ltd  
Represented by its Managing Director
2. Devadass ... Petitioners/Defendants

/Vs./

1. Orfeo Spinning Mills P. Ltd  
Represented by its Managing Director
2. P. Jaganathan
3. J. Karkuzali ... Respondents/Plaintiffs

On 27.09.2024, this petition came up before me for the final hearing in the presence of Thiru.K.Gavutham Bharathi Counsel appearing for the petitioners and Thiru.R. Ramasamy Counsel appearing for the respondents and upon hearing both side and on perusal of case records, this Court delivers the following:-

**ORDER**

Petition is filed under Order 7, Rule 11 r/w sec. 151 of Civil Procedure Code to order to reject the plaint filed by the respondent/plaintiff in COS No.15/2024.

Date:03.10.2024

Principal District Court, Tiruppur

2) **Case of the Petitioners/defendants in brief reads as follows:-**

2.1 The petitioner is the 2<sup>nd</sup> petitioner and the 2<sup>nd</sup> defendant in the above suit. The 2<sup>nd</sup> petitioner filed this affidavit on behalf of this 1<sup>st</sup> petitioner as well. The 2<sup>nd</sup> petitioner is the managing director of this 1<sup>st</sup> respondent company. The respondents/plaintiffs had filed the above suit for the relief of monetary claim for the sum of Rs.2,60,88,088/- against the 2<sup>nd</sup> petitioner and other petitioner and the 2<sup>nd</sup> petitioner fully acquainted with facts of the case. It is further to state that, the respondents had filed the suit deriving the cause of action from the ledge book for the financial year 2020-2023 as per the plaint paragraph no.5. But, the respondent has miserably failed to mention the exact date of caution of action anywhere in the plaint. It is relevant to state that exact date of cause of action is the crucial point in any money suit whereas failure to mention the same itself is a sufficient reason to reject the plaint. Further, the respondent has suppressed the real facts and twisted the facts to suit his claim. In reality as per the ledge book of the petitioner for the years April 2020 to March 2033 it is only the respondent is liable to pay Rs.41,51,356/- to the petitioner. The sum of the amount claimed to be paid by the respondent to the third party suppliers in plaint paragraph 6 is also without any approve from these respondents.

2.2. The 2<sup>nd</sup> petitioner further states that the total order cost placed by the respondent with the petitioners for the financial year 2020 – 2023 is Rs.2,98,75,947/- out of which the petitioner paid to the plaint mentioned third party suppliers Rs.91,36,879/- in total (without any authorisation) and the respondent had paid Rs.1,65,87,712/- directly to the petitioner in the said financial year. Therefore, by the end of the financial year 2020-2023 it is only the respondent who is due

Rs.41,51,356/- to the petitioner. Therefore, when there is due amount to be paid by these petitioners to the respondents as per the plaint document nos.5,6, and 7 there arose no cause of action to file this suit. The petitioner is herewith producing the ledger book of the petitioner and the defendant for the financial year 2020-2023. Therefore, for this very reason the plaint is to be rejected at limini.

2.3. It is further stated that the respondent has conveniently suppressed the facts on statement of accounts the respondent failed to show how he had derived the claimed the sum of the amount. The respondent voluntarily mislead the court, he had abstained himself from giving proper detailed accounts and invoices under which he has arrived at a suit claim sum of Rs.2,60,88,088/-. For this very reason itself shows that the respondent has not approached this court with clean hands. The respondent was doing business with the respondent and the transaction between the parties to this application is purely based on individual orders and invoices. The respondent had filed the suit on 22.05.2024 therefore he can only derive cause of action from any orders, invoice and payment made after 22.05.2021, but the plaintiff in his plaint paragraph 5 has intentionally abstained himself from mentioning any date from which he has calculated the suit claim amount. This will very well show the malafide intention of the respondent. It is also relevant to state that the respondent was literally making use of the petitioner company for his own personal benefit. Since, the respondent was major business partner to the petitioner, out of undue influence the respondent made huge profits out of the same while leaving the petitioners in huge loss. When the same was found and questioned the respondent has stopped the business and camp up with the fanciful suit to harass the petitioner.

2.4. As stated the petitioner is not liable to pay any amount to the respondent as per ledge book in financial year from April 2020 – March 2023. The petitioner has manipulated the ledge account statement. On plain reading of the plaint document No.5-10 would reveal that the respondent has included the previous fabricated invoice till the year 2019 into the accounts from April 2020 to suit an limitation period. By showing the sum of the amount as an opening balance the respondent herein has conveniently filed the suit for the sum of the amount which is barred by limitation. Therefore, for this reason also plaint is liable to be rejected.

2.5. The 2<sup>nd</sup> petitioner states that for above said reasons, the filing of the entire suit and connected application is an abuse of the process of court. The plaintiff by clever drafting caused this suit to be numbered. On bare reading of the plaint and the plaint documents would reveal that the plaintiff filed the present suit based on manipulated ledger book and by suppressing vital documents and facts. Such a type of vexatious plaint has to be rejected to save the value time of the court. The plaintiff has no cause of action to file the above suit against the petitioners/defendants and the sum claimed by the respondent/plaintiff is barred by limitation. Unless the plaint is rejected as vexatious one, speculative and as filed without any cause of action, legal right, the petitioner will be put to irreparable loss and hardship. Hence, the Petition.

3) **Case of the respondents in brief from the counter statement reads as follows:-**

3.1 The petition is false, frivolous, vexatious and unsustainable in facts and law. The petitioner is put into strict proof of the averments made in the petition except those that are specifically admitted herein.

3.2 The respondents/plaintiffs would submit that the necessary document including ledger is produced in support of the suit claim viz; Rs.2,60,88,088/-. The petitioners/defendants themselves admit the business transaction with the respondents/plaintiffs and acknowledged the receipt of Rs.91,36,879/- from it. The respondents/plaintiffs are able to establish their suit claim with reference to supportive documents at the time of trial. The documents including the invoices for the relevant period of time are available and the statement of accounts pertaining to suit transaction are also produced and therefore, the petition seeking to reject the plaint on the ground of no cause of action in the suit and the claim is barred by limitation are unsustainable. Hence, the petition is to be dismissed.

4) **The Point for consideration is**

Whether the plaint is to be rejected on the ground of non disclosure of cause of action and also the claim is barred by limitation or not?

5) No oral or documentary evidence was let in from both side.

6) **POINT:-**

Both side heard. Records perused. The petitioner and the respondent are a company doing business in yarn. The respondents being the plaintiffs had filed the suit for recovery of Rs.2,60,88,088/- on statement of accounts maintained in the due course of business. The petitioners/defendants had filed the petition under order to reject the plaint on the ground that it lacks cause of action and the claim is barred by limitation. Under law, the averment made in the plaint alone is to be looked into in deciding the petition seeking rejection of plaint and not the

written statement. The business transaction in between the plaintiffs and the defendants are admitted fact. The ledger covering relevant period of time are being filed by the respondents/plaintiffs in support of their claim in the suit. The petitioners/defendants in the counter statement would also admit the business transaction worth Rs.2,98,75,947/- and payment of Rs.91,36,879/- to third parties as mentioned in the plaint and also acknowledged the receipt of Rs.1,65,87,712/- from the respondents/plaintiffs in between the financial year 2022-2023. One of the main contention of the petitioner is that the some of the claim based on the business transactions are barred by limitation and hence, sought to reject the plaint. It is settled principle of law that the plaint cannot be rejected in part. Moreover, the question of limitation is a mixed question of fact and law and same is to be determined on conclusion of trial.

7. It is settled law as held by various Courts that where on the face of the plaint, a suit appears to be barred by any law, the Court shall dismiss the suit. But, where it does not so appear, but requires further consideration or, in other words, if there be any doubt or if the Court is not sure and certain that the suit is barred by some law, the Court cannot reject the plaint under Clause (d) of Order VII Rule 11 of C.P.C. held by Hon'ble High Court of Madras in Kasthuri and others Vs. Baskaran and another reported in 2004(2) LW 429 Mad.

8. When a part of the relief sought for in the plaint is within time and even if another part of the relief sought for in the plaint is barred by limitation, a plaint cannot be rejection in part. A plaint cannot be rejected in part is a well settled proposition of law held by Hon'ble High Court of Madras in Chandra Vs. Reddappa Reddy reported in 2011(3) LW. 936 (Mad).

9. The respondents/plaintiffs in their counter statement would contend that the supportive documents including the invoices are available and they are having right to file the same at the time of trial. It is relevant to note that every pleading shall contain a statement in a concise form of the material facts on which the party pleading relies for this claim or defence but not the evidence by which they are to be proved as per Order VI Rule 2 of Civil Procedure Code. In the facts and circumstances of the case, the plaint cannot be rejected on the ground of limitation.

10. The yet another contention of the petitioners/defendants are that the plaint lacks cause of action and hence, same is to be rejected. It is to reiterate that the petitioners/defendants in their counter statement would also admit the business transaction worth Rs.2,98,75,947/- and payment of Rs.91,36,879/- to third parties as mentioned in the plaint and also acknowledged the receipt of Rs.1,65,87,712/- from the respondents/plaintiffs in between the financial year 2022-2023. Following are the principles evolved from the case laws:

(a).“Cause of action implies a right to sue. The material facts which are imperative for the suitor to allege and prove constitutes the cause of action. It has, however, been judicially interpreted inter alia to mean that every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Negatively put, it would mean that everything which, if not proved, gives the defendant an immediate right to judgment, would be part of cause of action. Its importance is beyond any doubt. For every action, there has to be a cause of action, if not, the plaint or the writ petition, as the case may be, shall be rejected summarily” as held by

Hon'ble Supreme Court of India in *Usum Ingots & Alloys Ltd., Vs. Union of India* and another reported in (2004) 6 Supreme Court Cases, 254.

- (b). There cannot be any compartmentalization, dissection, segregation and inversions of the language of various paragraphs in the plaint. If such a course is adopted it would run counter to the cardinal canon of interpretation according to which a pleading has to be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or a passage and to read it out of the context in isolation. Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction or words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time, it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair- splitting technicalities as held by Hon'ble Supreme Court of India in *Sopan Sukhdeo Sable vs. Assistant Charity Commissioner* reported in (2004) 3 SCC 137.
- (c). Although it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words or change of its apparent grammatical sense. The intention of the party concerned is to be gathered primarily from the tenor and terms of his pleadings taken as a whole. At the same time, it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair-splitting technicalities held by Hon'ble High Court of Madras in *P. Rajkumar Vs. Mrs. Mary Saroja*, reported in 2013(2) MWN (Civil) 89 (Mad).

- d. Only a part of the claim cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected held by Hon'ble Supreme Court in Roop Lal Sathi Vs. Nachhattar Singh Gill reported in AIR 1982 SC 1559.
- e. If the plaint makes out a case indicating a cause of action, then falsity of the claim would be a matter to be determined at the time of trial and if at all the suit is found to be vexatious or based on false assertion, then the plaintiff would be liable for compensatory cost under 35-A of CPC. The intention of the party concerned is to be gathered primarily from the tenor and terms of pleadings taken as a whole. At the same time, it should be borne in mind that no pedantic approach should be adopted to defeat justice on hair splitting technicalities held by Hon'ble Madurai Bench of High Court of Madras in Gunaseelan Vs. Valarmathi and 2 Ors, reported in 2009(5) CTC 693.
- f. It has been held that while considering the rejection of plaint under Order 7 Rule 11 CPC, the strength or weakness of the plaintiff's case is not to be seen and what is required to be disclosed by the plaintiff is clear right to sue held by Hon'ble High Court of Madras in Astral Cables Ltd., Vs. The National Small Industries Corporation Ltd, reported in 2011-2-LW. 332.
- g. It is to be noted that under Order VII Rule 11 of CPC there is a requirement of inclusion of cause of action. Ordinarily, a court of law is to presume that every allegation in the plaint is true. As a matter of fact, when the plaint raises arguable points which requires deeper deliberation and scrutiny, the same cannot be rejected in the eye of

law. Also, that, a plaint cannot be rejected under Order VII Rule 11 of CPC, where the suit is required to be heard on merits after taking evidence in a given case. However, if the averments made in the plaint and the documents relied upon establish a cause of action, then the plaint should not be merely rejected based on the reason that the averments are not enough to prove the facts mentioned therein. Moreover, a court of law can examine the parties to clear the pleadings held by Hon'ble High Court of Madras in R. Perumal Naicker Vs. R. Sakrapani, reported in (2013) 6 MLJ 119.

11. The petitioners/defendants in support of their contention had relied upon the case law of Hon'ble High Court, Madras in M/s.Mano Auto Spares and 2 others Vs. M/s.Associated Electrical Agencies. The appeal preferred in the said case law was out of judgment and decree on full-fledged trial and the Hon'ble High Court, Madras was pleased to dismiss the suit claim in part since the transaction covered under the same was barred by limitation and decreed the suit in respect of remaining portion of claim. The facts in the said cited case law was not pertaining to rejection of plaint as in the case on hand and therefore, the facts and circumstances of the case in the petition seeking rejection of plaint is not applicable to the facts and circumstances of the cited case law.

12. From the cumulative analysis of the averment made in the plaint, this court hold that plaint discloses cause of action and the suit claim is not barred by law of limitation.

In the result, the petition is dismissed with cost.

**Dictated to the Steno-typist, typed by him as directly on Computer, corrected and pronounced by me in the open Court dated this the 03<sup>rd</sup> day of October, 2024.**

Principal District Judge,  
Tiruppur.

Draft / Fair Order  
I.A.No.04/2024 in  
COS.No.15/2024  
Dated:03.10.2024.