

(1934) 12 MAD CK 0028
In the Madras High Court

K.E.P.V. Venkatachalam Pillai

APPELLANT

Vs

Rajaballi M. Sajun

RESPONDENT

Date of Decision : 17-12-1934

Acts Referred:

Citation : AIR 1935 Mad 663 : (1935) 41 LW 519 : (1935) 68 MLJ 504

Hon'ble Judges : Horace Owen Compton Beasley, J

Bench : Division Bench

Judgement

Horace Owen Compton Beasley, Kt., C.J.—The plaintiff brought this suit in the I District Munsif's Court at Tuticorin. His claim as against

the defendant who carries on business in Rangoon was for shortfall in goods ordered and for damages on account of the inferiority of quality of

those goods. On an examination of the plaint it is clear that the suit as framed is a suit by the plaintiff against the defendant as his vendor. A

preliminary issue was taken that the District Munsif's Court at Tuticorin had no jurisdiction to try the suit because no part of the cause of action

had arisen there and the point was argued that in fact the relationship here was not that of vendor and purchaser at all but that of principal and

agent, "the defendant being a mere commission agent purchasing goods on the orders of the plaintiff. This was treated as a question of law by the

District Munsif who held that the relationship was that of principal and agent and that the suit did not lie in the District Munsif's Court at Tuticorin.

On appeal to the Subordinate Judge, this finding was affirmed. No evidence whatever was taken in the case and none of the other issues raised

were tried. In our view, this is not a suit which could be dismissed on this preliminary objection. Obviously the suit as framed in the plaint was one

which gave the District Munsif's Court jurisdiction to try it. Apart from this, upon an examination of the documents another thing is perfectly clear

and that is that whatever the relationship between the parties may in fact be, payment for the goods purchased by the plaintiff or on his behalf was

to be made at Tuticorin. If that is so, part of the cause of action arose within the jurisdiction of the Tuticorin District Munsif's Court. Here the

goods were to be paid for by hundies and against bills of lading in favour of the defendant at Tuticorin by honouring the bills at the branch of the

Imperial Bank of India at Tuticorin. Therefore the plaintiff could not get possession of the goods without paying for them at Tuticorin. The

contention raised before us that because the F. defendant by endorsement of the hundies obtained payment for them at Rangoon it makes a

difference depriving the District Munsif's Court of its jurisdiction by reason of the fact that payment was in fact at Rangoon and not at Tuticorin

cannot be sustained. It is a common thing for vendors to discount the bills in the place where they carry on business. Nevertheless, the place of

payment is the place where the bills are presented and where they are either met or dishonoured. For these reasons, the finding of the Subordinate

Judge must be set aside and the suit remanded to the District Munsif's Court for disposal of all questions raised in the plaint and written statement.

The Civil Revision Petition must, therefore, be allowed. The petitioner will have his costs here and in the lower appellate Court. The costs in the

District Munsif's Court will abide the result of the suit.