

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2015

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).No.4594 of 2015

and

M.P. No.1 of 2015

R.Ramesh

.. Petitioner/Defendant

Vs.

M/S.Unique Home Healthcare Ltd.,
rep. by its authorised signatory
No.19, Bishop Gardens
Raja Annamalaipuram
Chennai-28.

.. Respondent/Plaintiff

Prayer:- Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order dated 12.08.2015 made in I.A.No.1660 of 2015 in O.S.No.7457 of 2012 on the file of the VII Assistant Judge, City Civil Court, Chennai.

For Petitioner :Mr.C.Ramesh

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 12.08.2015 made in I.A.No.1660 of 2015 in O.S.No.7457 of 2012 on the file of the VII Assistant Judge, City Civil

Court, Chennai.

2.At the time of admission, argument of the learned counsel for the revision petitioner is heard in length.

3.The respondent herein, who is a lessee under the revision petitioner filed a suit in O.S.No.7457 of 2012 for recovery of advance amount paid by him. The revision petitioner/defendant filed a written statement stating that the respondent/plaintiff has caused damages to the building, which was leased out to him. So he pleaded set off the amount claimed by the plaintiff against the damages sustained by him. Thereafter, trial has been commenced, when the defendant was in witness box, the revision petitioner/defendant has come forward with an application in I.A.No.1660 of 2015 to condone the delay for reception of additional documents. The trial Court, after hearing both sides, dismissed the application, against which, the present revision has been preferred by the defendant.

4.Learned counsel for the revision petitioner submits that in the affidavit filed in support of the application, it was stated that the revision petitioner/defendant did not file those documents along

with the written statement, as they were kept in the leased premises and could not be traced. Even though the revision petitioner has assigned sufficient reason, the trial Court has not considered the same and erroneously dismissed the application. To substantiate his arguments, he relied upon the decision of this Court reported in **2011 (2) CTC 258 (N.Subhash Chand Jain v. Uniply Industries Limited, represented by its Managing Director, B.L.Bengam, No.168, Sydenhams Road, Chennai-3)** and prayed for allowing the revision.

5.On perusal of typed set of papers, it reveals that respondent/tenant as a plaintiff filed a suit for recovery of advance amount of Rs.6,61,996/-. The revision petitioner/defendant, after issuance of notice and rejoinder, has raised set off and then only, suit has been filed. After framing of issues, plaintiff's side evidence has been completed, when defendant was in witness box, he has come forward with an application for reception of three documents viz., (1) Photographs of the premises along with a compact disc (2) Bank statement (3) Electricity meter card. The respondent/plaintiff filed a counter stating that those documents and photographs have been concocted for the purpose of the case and he has not assigned

any valid reason for filing those documents.

6. Admittedly, Electricity meter card and Bank statement can be very well available with the revision petitioner/defendant, but no valid reason has been assigned by him for not filing those documents at the time of filing written statement. Moreover, the reason assigned by the revision petitioner/defendant is not convincing. Because in his affidavit, he has stated that electricity charges till the month of October 2011 alone has been paid by the plaintiff and they vacated the premises in the month of December 2011 and the amount paid by the plaintiff has been paid by the defendant.

7. At this juncture, it is appropriate to consider the decision of this Court, which is relied upon by the learned counsel for the revision petitioner reported in **2011 (2) CTC 258 (N.Subhash Chand Jain v. Uniply Industries Limited, represented by its Managing Director, B.L.Bengam, No.168, Sydenhams Road, Chennai-3)**, relevancy and admissibility of the document can be decided only at the time of trial. There is no quarrel over the proposition. This Court has followed the Apex Court decision reported in **Bipin Shantilal Panchal v. State of Gujarat (2001**

(3) SCC 1), wherein it was held that marking of document cannot be rejected threshold and the same can be marked subject to objection. Relevancy and admissibility can be decided only at the time of trial. But the above decision is not applicable to the facts of the present case.

8.Considering the aforestated circumstances of the case, I am of the view, the revision petitioner/defendant has not assigned any valid reason to condone the delay for reception of additional documents. The trial Court has considered all the aspects in proper perspective and came to the correct conclusion. So the order passed by the trial Court does not suffer any infirmity or illegality and it is hereby confirmed. The revision petition deserves to be dismissed and it is hereby dismissed.

9.In the result, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

09.12.2015

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Index:Yes/No

R.MALA,J.

Kj

To

VII Assistant Judge, City Civil Court, Chennai.

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