

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.10.2016

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CIVIL REVISION PETITION (PD)Nos.4578 and 4579 of 2013
and
M.P.Nos.1 and 1 of 2013

1.Mr.Sarath Kakumanu

2.M/s.Skyscape Properties Private Limited,
Represented by its Director
Mr.Sarath Kakumanu,
No.125, St. Mary's Road,
Raja Annamalaipuram,
Chennai 600 028.

.. Petitioners
in both the petitions

VS.

Mr.R.Chandrasekar

.. Respondent
in both the petitions

Prayer in Civil Revision Petition No.4578 of 2013: This petition is filed under Article 227 of the Constitution of India to set aside the order dated 19.07.2013 passed in I.A.No.4918 of 2013 in O.S.No.1214 of 2011 on the file of the learned IV Additional City Civil Judge, Chennai.

Prayer in Civil Revision Petition No.4579 of 2013: This petition is filed under Article 227 of the Constitution of India to set aside the

For Respondent ... Mr. Menon
(for both petitions)

These civil revision petitions are filed to set aside the order dated 19.07.2013 passed in I.A.Nos.4918 and 4919 of 2013 in O.S.No.1214 of 2011 on the file of the learned IV Additional City Civil Judge, Chennai.

2. The learned counsel for the revision petitioners submitted that a suit in C.S.No.609 of 2011 was filed by the respondent/plaintiff before this Court seeking recovery of money and damages and the same was transferred to City Civil Court and renumbered as O.S.No.1214 of 2011. The revision petitioners/defendants filed their written statement in time. Thereafter, the suit was posted for chief examination of the plaintiff and it was completed. Subsequently, the

suit was posted on 3.01.2013 to transfer the papers to the regular Court, namely, IV Additional City Civil Court and the regular Court received the records and posted the case on 22.01.2013 for recording evidence of D.W.1. On 22.1.2013, the defendants were called absent and the suit was adjourned to 02.02.2013. When the suit was taken up on 02.02.2013, the defendants were absent on that day also. Hence, the defendants' side evidence was closed and the suit was adjourned to 25.02.2013. On 25.02.2013, the suit was adjourned to 27.02.2103 for arguments of the plaintiff. Again, it was adjourned to 07.03.2013. After completion of the arguments of the plaintiff, the suit was posted on 12.03.2013 for the defendants' side arguments. At this juncture, the revision petitioners/defendants filed interlocutory applications in I.A.Nos.4918 and 4919 of 2013 to reopen the defendants' side evidence. The respondent/plaintiff therein filed counter in both the applications. The learned trial Judge, after considering the arguments of both sides and after perusing the records, allowed both the applications on condition that the petitioners/defendants therein shall pay a sum of Rs.1,000/- to the respondent/plaintiff therein on or before 03.08.2013, failing which, the application shall stand closed. Though both the applications were allowed by the trial Court, there was no entry in the Court A-Diary

after 19.07.2013. Hence, the revision petitioners were unaware of the common order dated 19.07.2005 passed by the learned IV Additional Judge, City Civil Court.

3. The learned counsel for the revision petitioners further contended that in view of non-entry in the Court A-Diary, the revision petitioners were unable to know the order passed by the trial Court and hence, they were not in a position to comply with the order of the trial Court within the stipulated time and non-compliance of the order is neither wilful nor wanton. Therefore, he prayed to allow the civil revision petitions.

4. The learned counsel for the respondent contended that on the fact regarding no entry in the Court A-Diary about the passing of the common order in I.A.Nos.4918 and 4919 of 2013, he has no serious objection.

5. Considering the facts and circumstances of the case, it is seen that both the learned counsel have not known the reason for omission of entry in the Court-A Diary about the common order passed in I.A.Nos.4918 and 4919 of 2013 and they submitted that it may be by

mistake.

6. In such circumstances, this Court is of the firm view that the suit has to be adjudicated by giving reasonable and sufficient opportunities to respective parties. The reason stated by the learned counsel for the revision petitioners/defendants for non-payment of costs in time is genuine in nature and therefore, the revision petitioners are entitled to contest the suit before the trial Court. Hence, this Court is inclined to allow the civil revision petitions on payment of costs to the respondent.

7. Accordingly, the common order passed in I.A.Nos.4918 and 4919 of 2013 by the learned IV Assistant Judge, City Civil Court is hereby set aside and the revision petitions are allowed with costs on condition that the revision petitioners shall pay a sum of Rs.10,000/- (Rupees Ten thousand only) as costs to the learned counsel for the respondent on or before 21.10.2016. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

8. At this juncture, it is submitted by the learned counsel for the respondent that originally, the suit was filed before this Court in

C.S.No.609 of 2001 and after 10 years have elapsed, the suit was transferred to the City Civil Court in the year 2011 and the same is pending till date. Hence, he requested early disposal of the suit.

9. Considering the fact that the suit was originally filed in the year 2001 and already 16 years have elapsed, the learned IV Assistant Judge, City Civil Court, Chennai is directed to take up the suit and dispose of the same as early as possible, preferably within a period of two months from the date of receipt of a copy of this order subject to the condition that the respective parties shall co-operate for disposal of the case.

07.10.2016

Index:Yes/No
Internet:Yes/No

To

The IV Assistant Judge,
City Civil Court,
Chennai.

S.M.SUBRAMANIAM.J

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**C.R.P.(PD)Nos.4578 and
4579 of 2013**

07.10.2016

