

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M. DURAISWAMY

C.R.P.(PD).No.206 of 2017
and C.M.P.No.895 of 2017

Intelenet Global Services
earlier known as Sparsh BPO Services Ltd.,
represented by Biju Karthikeyan
Senior Manager - Administration,
Flat No.F1, Guruvayur Flat,
Plot No.9, Kanaivani Street,
Keelkattalai,
Chennai - 600 117.

... Petitioner

Vs.

1.C.Ravi Sankar
2.Dipesh R.Singhania
3.Amit Gupta
4.Hemendra
5.Harihara Subramanian
(R2 to R5 are formal parties)

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India
against the docket order dated 25.11.2016 passed in I.A.No.409 of 2016 in
O.S.No.577 of 2015 on the file of the District Munsif, Poonamallee.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
for M/s.E.Pragasam

For Respondents : Mr.T.S.N.Prabakaran (R1)

ORDER

Challenging the fair and final order passed in I.A.No.409 of 2016 in O.S.No.577 of 2015 on the file of the District Munsif, Poonamallee, the 2nd defendant has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.577 of 2015 for permanent injunction, restraining the defendants from putting or handing over physical possession of the suit property to 3rd parties, suppressing the plaintiff in any manner whatsoever. The defendants filed their written statement and are contesting the suit.

3.In the said suit, earlier a Commissioner was appointed to note down the physical features and the Commissioner was also appointed and he has also filed his report. Subsequently, the plaintiff took out an application in I.A.No.409 of 2016 seeking for appointment of an Advocate Commissioner to evaluate the quantum of damages in the suit property. The trial Court allowed the application, against which the present Civil Revision Petition has been filed by the 2nd defendant.

4. When the suit itself is for bare injunction restraining the defendants from putting or handing over physical possession of the suit property to 3rd parties, the relief sought for in I.A.No.409 of 2016 seeking for appointment of Advocate Commissioner to evaluate the damages caused to the building is clearly beyond the scope of the suit. The plaintiff has not filed the suit for damages or for recovery of possession. In such a case, the appointment of Advocate Commissioner to evaluate the damages does not arise. The trial Court has erroneously allowed the application and appointed an Advocate Commissioner which is liable to be set aside.

5. Since the relief sought for in the application in I.A.No.409 of 2016 is beyond the scope of the relief sought for in the suit, the fair and decreetal order passed in I.A.No.409 of 2016 are set aside. Consequently, the application in I.A.No.409 of 2016 stands dismissed.

6. The learned counsel appearing for the 1st respondent/plaintiff submitted that liberty may be given to the plaintiff to file a fresh suit for claiming the arrears of rent and damages.

7.Since I am deciding only the correctness of the order passed in I.A.No.409 of 2016, liberty is given to the plaintiff to file appropriate application under Order 23 of the Civil Procedure Code before the trial Court seeking for such liberty and the same can be decided in accordance with law by the trial Court.

8.Mr.AR.L.Sundaresan, learned senior counsel appearing for the petitioner submitted that the revision petitioner/2nd defendant is willing to hand over the vacant possession and the keys in respect of the suit property.

9.The learned counsel appearing for the 1st respondent/plaintiff is also willing to receive the keys of the premises and also vacant possession of the premises.

10.The said submission made by the learned counsel on either side is recorded.

11.In the result, the Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

17.03.2017

To

The District Munsif,
Poonamallee.

M. DURAISWAMY,J.

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