

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

**C.R.P. (PD) No. 3846 of 2019
and
C.M.P. No. 25359 of 2019**

1. The Manager,
UCO Bank,
AB-147, III Main Road, (Ground Floor),
Anna Nagar,
Chennai. 600 040.

2. The Zonal Officer,
UCO Bank (Zonal Office),
New No. 328, Old No. 169, 2nd Floor
Thambuchetty Street, Parrys,
Chennai – 600 001.

3. The Chairman and Managing Director,
UCO Bank Head Office,
10, BTM Sarani,
Kolkata – 700 001.

.. Petitioners

-Vs-

Dr. A.E. Chelliah,
Senior Advocate,
AB-147, III Main Road, (First Floor),
Anna Nagar, Chennai - 600 040.

... Respondent

Prayer : Petition filed under Article 227 of the Constitution of India against the order dated 17.10.2019 passed by the VII Additional City Civil Court, Chennai in I.A. No. 4 of 2019 in O.S. No. 1187 of 2019.

For Petitioners : Mr. V. Suthakar

For Respondent : Mr. A.E. Chelliah
Party-in-person

ORDER

This Civil Revision Petition has been filed against the fair and decretal order passed in I.A. No. 4 of 2019 in O.S. No. 1187 of 2019 on the file of the VII Additional City Civil Court, Chennai, by order dated 17.10.2019.

2. Before the trial Court, the respondent / plaintiff filed a suit for recovery of money i.e., in O.S. No. 1187 of 2019. In the said suit, the present application has been filed by the defendants / Bank under Order VII Rule 11 of the Civil Procedure Code to reject the plaint.

3. Since the said application having been heard and was rejected by the trial Court through the impugned order, aggrieved by the same, the present revision petition has been filed by the defendants.

4. Heard Mr. V. Suthakar, learned counsel appearing for the revision petitioners who would submit that, even though the defendants were the tenants or lessees under the respondent / plaintiff in respect of his premises, there has been a written rental lease agreement between the parties, whereby the contractual rent was Rs. 51,050/-, which subsequently was enhanced to Rs. 63,812.50/- and the said enhanced rent was up to 31.05.2018, the date on which, the agreement came to an end.

5. Thereafter, even though there had been some negotiation to extend the lease for the period of five years, for which, since, according to the learned counsel appearing for the revision petitioners, the respondent / landlord did not agree, the defendants / Bank wanted to vacate the premises, however in order to find out the suitable alternative place, it takes some time. Therefore, during the mean time, since the Bank is still in accommodation of the premises of the respondent / landlord, the agreed contractual rent i.e., Rs.63,812.50/- per month being paid by way of deducting from the rental advance paid by the defendants.

6. In this context, the present suit has been filed for recovery of money by stating that, the Bank has to pay a sum more than Rs. 16,00,000/- (Rupees Sixteen Lakhs Only). Thus the suit for recovery of money filed by the respondent / plaintiff, based on what basis such calculation has been made, how the plaintiff has calculated that much of due payable by the Bank to the plaintiff has not been disclosed in the plaint or in the cause of action. Therefore according to the learned counsel for the defendants, there has been absolutely no cause of action on the part of the plaintiff to lay the suit as has been laid and therefore on that ground of no cause of action, the present application under Order VII Rule 11 of the Civil Procedure Code has been filed to reject the plaint which according to the learned counsel appearing for the revision petitioners has not been considered in proper perspective by the trial Court and erroneously rejected the same. Therefore, the said order which is impugned herein requires interference from this Court.

7. I have heard the said submissions made by the learned counsel appearing for the revision petitioners / defendants and also have gone through the materials placed before this Court.

8. It is an admitted fact that, the defendants / Bank was the lessee under the respondent / plaintiff by way of written lease agreement which was admittedly in existence till 31.05.2018. After 31.05.2018, admittedly there has been no written agreement of lease between the parties, therefore after 31.05.2018, if the defendants / Bank continued in the premises of the respondent / plaintiff, even if there be tenancy by holding over or the tenancy being of monthly basis, that issue cannot be gone into at this stage.

9. But in the meanwhile, whether the respondent / plaintiff had agreed to let out the premises beyond 31.05.2018 to the revision petitioners / defendants for the same contractual rent or enhanced rent is also the matter to be gone into only in the suit.

10. Unless these issues are decided after hearing both sides in the suit where they have to let in evidence, the prayer sought for in the suit for recovery of money cannot be decided.

11. Hence at the threshold, it cannot be said that the plaintiff laid the suit without any cause of action.

12. The relationship between the plaintiff and the defendants as the lessors and lessees cannot be denied also. The lessee Bank even after the expiry of the lease period continued in the accommodation even till date. When that being so, what shall be the payable rent, if at all any from the defendants / Bank, has to be decided based on the evidence going to be let in by the plaintiff and also by the defendants and those issues can be gone into by the trial Court after the full fledged trial only.

13. At this juncture, the Court cannot decide that, whether the plaintiff without any basis laid the suit or not and without any cause of action has filed the plaint for recovery of money or not.

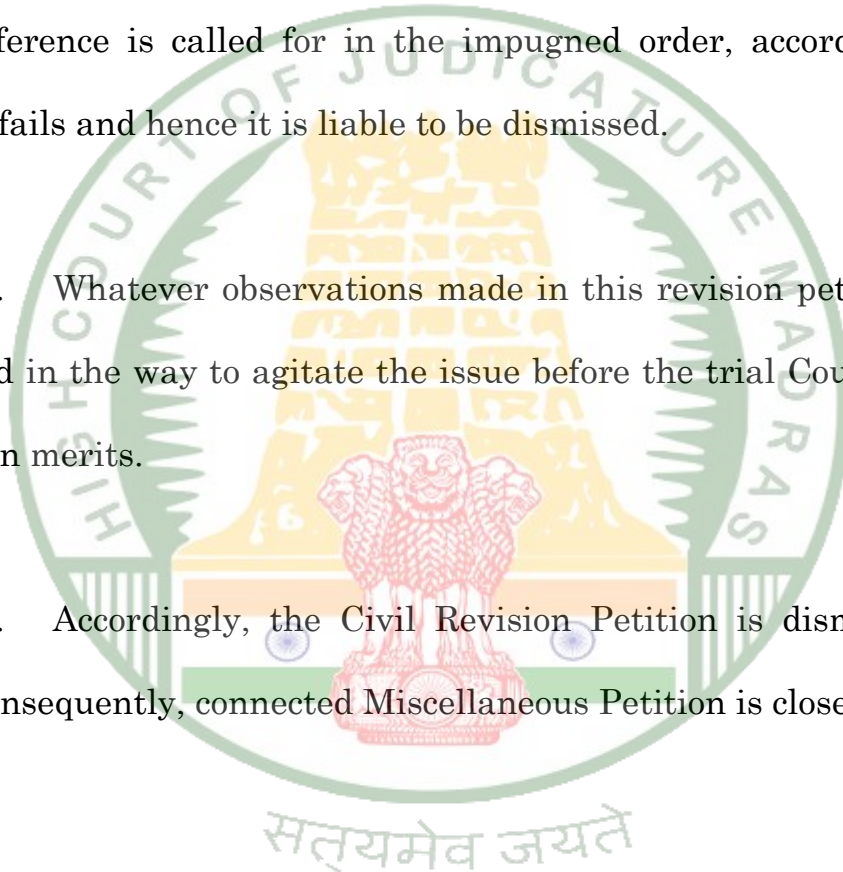
14. In that view of the matter, this Court feels that, absolutely no interference is called for in the order passed by the trial Court which is impugned herein, whereby the application filed by the revision

petitioners / defendants under Order VII Rule 11 of the Civil Procedure Code to reject the plaint has been dismissed.

15. In that view of the matter, this Court feels that, absolutely no interference is called for in the impugned order, accordingly this revision fails and hence it is liable to be dismissed.

16. Whatever observations made in this revision petition shall not stand in the way to agitate the issue before the trial Court by both parties on merits.

17. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.



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Index: Yes / No
Speaking order / Non speaking order
vji

R. SURESH KUMAR, J.

vji

To

The VII Additional City Civil Court,
Chennai.



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