



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P (MD)No.298 of 2019

and

C.M.P. (MD)No.1455 of 2019

The GRD Trust,
Represented by its Managing Trstee,
Dr.D.Padmanaban
No.963, Kalai Kathir Buidlings,
Avainashi Road,
Coimbatore - 641 018.

...Petitioner / Petitioner /
Plaintiff

Vs.

1.P.S.Muthu Charitable Trust,
Represented by its Managing Trustee,
Mr.P.S.Muthu Kaluvan, Door No.40B,
Pattalamman Koil Street,
Ward No.II, Keela Gudalur, Uthamapayam Taluk,
Theni District.

2.Mr.P.S.Muthu Kaluvan,
Managing Trustee,
P.S.Muthu Charitable Trust
Door No.40B, Pattalamman Koil Street,
Ward No.II, Keela Gudalur, Uthamapayam Taluk,
Theni District.

... Respondents / Respondents /
Defendants

PRAYER: Civil Revision Petition is filed, under Section 115 C.P.C., to set aside the fair and decreetal order dated 12.11.2018 passed in I.A.No.75 of 2018 in O.S.No.56 of 2017, on the file of the learned Additional District Judge, Theni.

For Petitioner : Mr.S.I.Muthiah
For Respondents : Mr.R.Shankar Ganesh

O R D E R

This Civil Revision Petition has been filed challenging the fair and decreetal order dated 12.11.2018 passed in I.A.No.75 of



2018 in O.S.No.56 of 2017, by the learned Additional District Judge, Theni.

2.The revision petitioner herein filed the suit in O.S.No.56 of 2017 for repaying the lease amount based on the lease deed dated 20.01.2011 with subsequent interest @ 12% p.a. from the date of the suit till the date of realization. Thereafter, the revision petitioner/plaintiff filed the above application in I.A.No.75 of 2018 in O.S.No.56 of 2017 to pass decree based on the admission made by the respondent / defendant in the written statement as well as in the suit in O.S.No.28 of 2016 filed by the respondent / defendant before the District Munsif, Uthamapalaym, seeking permanent injunction. The Court below after hearing both the parties, dismissed the application stating that the respondent herein admitted only the lease amount, whereas he is disputing the interest portion. Challenging the above said order, the revision petitioner filed the present Civil Revision Petition stating that the Court below has rightly considered the payment of the lease amount of a sum of Rs.25 lakhs, which shall be returned after a period of five years lease period, wherein it was dismissed wrongly stating that the respondent herein disputing the interest.

3. Originally the lease was entered on 20.01.2011 and the said lease period was completed on 20.01.2016. At the time of entering into the lease deed, the revision petitioner herein paid a sum of Rs.25 lakhs and the respondent also received the same and executed a registered lease deed dated 20.01.2011. As per the lease deed, the respondent received the entire sum of Rs.25 lakhs and in turn, the plaintiff will enjoy the property for a period of five years and after the expiry of five years period, the respondent herein shall return the amount and the plaintiff in turn hand over the possession of the property to the respondent / defendant. In this regard, the respondent also filed the suit in O.S.No.28 of 2016, wherein he has clearly admitted the fact of receipt of Rs.25 lakhs. Further, he would contend that in the written statement filed in O.S.No.56 of 2017 also the respondent / defendant categorically admitted the receipt of the sum of Rs.25 lakhs. Further, in the lease deed also it has been clearly stated and the respondent also not denied the fact of receipt of Rs.25 lakhs. In such an event, the refusal by the Court below to pass decree based on the admission is not correct and hence, the same is liable to be set aside and accordingly, he prayed to pass decree based on the admission made by the respondent / defendant.

5.On the other hand, the learned counsel for the respondent / defendant would contend that they are not liable to pay the interest, since the property is not at all handed over to them. But he has fairly admitted the fact of receipt of Rs.25 lakhs in the written statement as well as in the suit. The said amount will be returned only in the event of the revision petitioner / plaintiff



as long as the property is retaining by the revision petitioner / plaintiff. Therefore, he would contend that the revision petitioner is entitled to, only a sum of Rs.25 lakhs and he is not entitled for any interest even as on today, since he is in the possession of the suit scheduled property.

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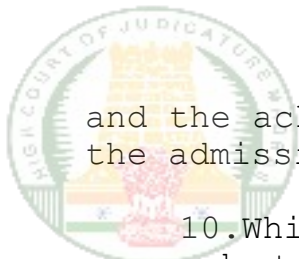
6. Heard the learned counsel for the petitioner; the learned counsel for the respondent and this Court has also perused the materials available on record.

7. On perusal of the lease deed dated 20.01.2011, it is seen that the lease was for a period of five years and it was a registered lease deed. The lease deed acknowledges the receipt of Rs.25 lakhs by the respondent / defendant from the revision petitioner / plaintiff and the said sum of Rs.25 lakhs shall be returned immediately after the expiry of the lease period of five years.

8. In the present case, admittedly, the lease amount was not returned by the respondent / defendant and on the other hand, the revision petitioner / plaintiff also not handed over the possession of the property. Since the revision petitioner / plaintiff is retained the possession of the property, he is not entitled for any interest as claimed in the suit, whereas in the present case, the respondent / defendant at least more than two occasions had admitted the fact of receipt of Rs.25 lakhs as lease amount, which shall be returned after a period of five years from the date of lease. The lease period was completed on 20.01.2016 and even after the expiry of the said period, the said amount was not returned. The revision petitioner has filed the above suit for the purpose of recovery of money, wherein the respondent / defendant herein categorically admitted the fact of receipt of Rs.25 lakhs and further, in the lease deed also it was admitted by the respondent / defendant about the receipt of Rs.25 lakhs. Therefore, this Court is of the view that the respondent / defendant is liable to pay the sum of Rs.25 lakhs and the plaintiff is liable to return the property once the amount is received from the respondent / defendant.

9. In the present case, as the revision petitioner / plaintiff themselves have been retaining the property in question till date, this Court is of the view that they are not entitled for any interest and the same can be ascertained by the Court by letting the parties to the trial. As far as the principal amount of Rs.25 lakhs is concerned, the respondent / defendant is liable to pay the said amount to the revision petitioner / plaintiff. Therefore, to the extent of Rs.25 lakhs, the revision petitioner is entitled for the decree based on the admission made by the defendant. Accordingly, this Court passes a Judgment and decree in favour of the revision petitioner / plaintiff to the extent of Rs.25 lakhs, based on the admission made by the respondent / defendant at paragraph No.3 of

<https://hcsres.apnclt.gov.in/hcsres/>



and the acknowledgement made in the lease deed, dated 20.01.2011 and the admission made at paragraph Nos.4 to 6 in O.S.No.28 of 2016.

10.While passing the above order, this Court directed the respondent / defendant to return the said amount within thirty days from the date of receipt of a copy of this order. In the event of returning the amount, the revision petitioner / plaintiff is directed to hand over the possession of the property within one week from the date of receipt of Rs.25 lakhs. In case, if the respondent / defendant failed to make the payment within the specified time, the revision petitioner / plaintiff is entitled to receive interest @ 12% p.a. from the date of this order till the date of realization for the sum of Rs.25 lakhs.

11.This Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar(CS)

To
The Additional District Judge, Theni.

+1 CC to M/s.I.ABRAR MD ABDULLAH, Advocate (SR-95237[F] dated 31/10/2019)

C.R.P (MD) No.298 of 2019
30.10.2019

KK/SAR/14.11.2019/4P-3C/