

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.12.2020

PRONOUNCED ON : 22.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(NPD)No.925 of 2016

CMP.No.5148 of 2016

(Through Video Conferencing)

K.K.Unni

Petitioner

Vs

M/s.Amaravathi Finance and Investments

by its Proprietor, Radhakrishnan

by its Manager, R.Ravichandran, Chennai-4

Respondent

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, to set aside the fair and decreetal order dated 22.12.2015 made in IA.No.12376 of 2015 in OS.No.441 of 2015, by the XI Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.Balasubramani

For Respondent : Mr.B.Dinesh Kumar

ORDER

1. This Civil Revision Petition has been filed, to set aside the fair and decreetal order dated 22.12.2015 made in IA.No.12376 of 2015 in OS.No.441 of 2015, by the XI Assistant Judge, City Civil Court, Chennai.
2. The facts of the case, in a nutshell, are that the Defendant is the Petitioner and the Respondent is the Plaintiff. The suit was filed for recovery of money with interest. The present application has been filed by the Defendant,

seeking unconditional leave to defend the suit. By the impugned order, the said application was dismissed. Hence, this Civil Revision Petition has been filed.

3. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
4. According to the Petitioner, as against the claim of Rs.2,00,560/- mentioned in the suit, only a sum of Rs.50,000/- is due and payable by him and in fact, a sum of Rs.15 lakhs and odd is due and payable to the Petitioner by the Respondent, towards arrears of salary and renovation and there are triable issues, which are to be proved by letting in oral and documentary evidence and hence, leave to defend the suit may be granted.
5. On the other hand, it is the case of the Respondent that no documents have been filed by the Defendant to conduct trial and till filing of the present application, the Petitioner has not made any claim or demand and the notice dated 29.12.2014 issued by the Respondent was neither replied nor denied. Only after issuance of summons, after admitting the liability, the Petitioner had duly paid Rs.50,000/- on 20.03.2015 and hence, this Civil Revision Petition is to be dismissed.
6. On a perusal of the records, it is seen that in the affidavit filed in support of the present application before the Court below, the Petitioner has stated, in paragraph 6 as below:-

“..only a sum of Rs.50,000/- is due and payable by me to the Respondent/ Plaintiff which I am ready and willing to pay immediately if directed to do so by this Hon'ble Court.”

From the above, it is clear that the said contention of the Petitioner is nothing but admission on his part. No document is filed by the Petitioner to show payment of certain amounts by him. The Petitioner has not sent any reply to the notice dated 29.12.2014, sent by the Respondent.

7. Observing above, the court below has rightly rejected the prayer of the Petitioner, seeking leave to defend the suit, by the impugned order, which warrants no interference by this Court, as this Court also does not find valid evidence in support of the contentions of the Petitioner and any infirmity in the impugned order.
8. In fine, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed.

22.12.2020

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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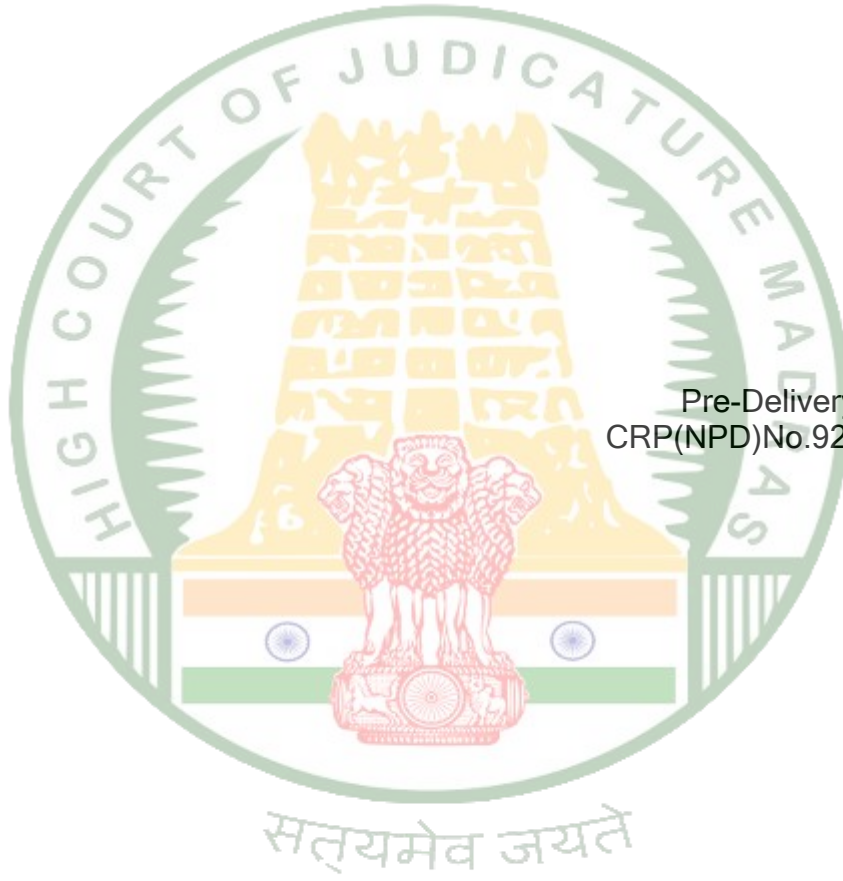
1. The XI Assistant Judge, City Civil Court, Chennai

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CRP(NPD)No.925 of 2016

A.A.NAKKIRAN, J.

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Pre-Delivery Order in
CRP(NPD)No.925 of 2016

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