

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2020

CORAM:

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.567 of 2018

Urbanedge Hotels Private Limited
Rep. By its Managing Director,
No.9, 1st main road,
CIT Colony, Mylapore,
Chennai 600 004.

...Petitioner

-Vs-

Air Control Equipments & Systems
Rep. By its Proprietor,
Mr.M.Udayaprakash
No.22, Vasudevapuram Street,
West mambalam, Chennai – 600 033.

... Respondent

Prayer:

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decretal order dated 13.10.2015 made in I.A No.4144 of 2015 in O.S.No.6715 of 2014 on the file of the VII Assistant City Civil Court, Chennai.

For Petitioner : Mr.K.Senthil Kumar

For Respondent : Mr.G.Vijaya kumar

ORDER

The defendant in O.S.No.6715 of 2014 has come up on revision against the rejection of its application for leave to defend the suit.

2. The suit was laid under Order XXXVII of the Code of Civil Procedure, seeking a money decree for a sum of Rs.7,50,909/- on the basis of the invoices for supply of goods and the specific admission made by the defendant in its reply, dated 14.09.2013. The defendant, upon service of summons, filed the instant application in I.A.No.4144 of 2015, seeking leave to defend. The claim made in the affidavit filed in support of the said application is to the effect that the goods supplied by the plaintiff were found to be substandard and there was an agreement for joint inspection. A specific statement is made in the affidavit that the complaint about the goods failing to meet the standards required and the joint inspection were made over phone and in person.

3. The trial Court upon a consideration of the material on record, particularly the reply letter dated 14.09.2013, wherein there was a specific and categorical admission of liability by the defendant,

concluded that the defence is not even plausible and held that the defendant is not entitled to leave to defend the suit.

4. I have heard Mr.K.Senthil Kumar, learned counsel appearing for the petitioner and Mr.G.Vijaya kumar, learned counsel appearing for the respondent.

5. Mr.K.Senthil Kumar, learned counsel appearing for the petitioner would vehemently contend that the discovery of the defects in the quality of the goods supplied were subsequent to the letter dated 14.09.2013 and a joint inspection was also agreed between the parties. Since these transactions were mainly over telephone, the defendant could not place relevant evidence in support of the same. He would also point out that though the letter dated 14.09.2013 contains an admission, subsequent developments can be brought forth to show that the admission is not an absolute admission which would invite a liability on the defendant on its own strength.

6. Contending contra, Mr.G.Vijaya kumar, learned counsel appearing for the respondent would submit that the entire defence that is

projected in the leave to defend application is an after thought and it is not even a plausible defence. He would point out that the letter dated 14.09.2013 contains an unequivocal and unqualified admission of the amount due by the defendant and therefore the defendant is not entitled to leave to defend the suit. He would further point out that on 19.03.2014, the plaintiff had issued a legal notice and the suit was instituted only in October 2014. The absence of any reply to the legal notice is also made a ground by the learned counsel for the respondent for rejection of the application for leave to defend.

7. I have considered the rival submissions.

8. As rightly pointed out by the learned counsel for the respondent, the letter dated 14.09.2013, contains an unequivocal admission of liability. The amount payable is also specifically stated therein. If the case of the defendant that the fact that the goods were of substandard quality, was discovered later, it should have formed subject matter of a reply at least to the legal notice issued by the plaintiff. The defendant has not chosen to send a reply, even though the suit was filed almost six months after the issuance of the legal notice. I am, therefore unable to

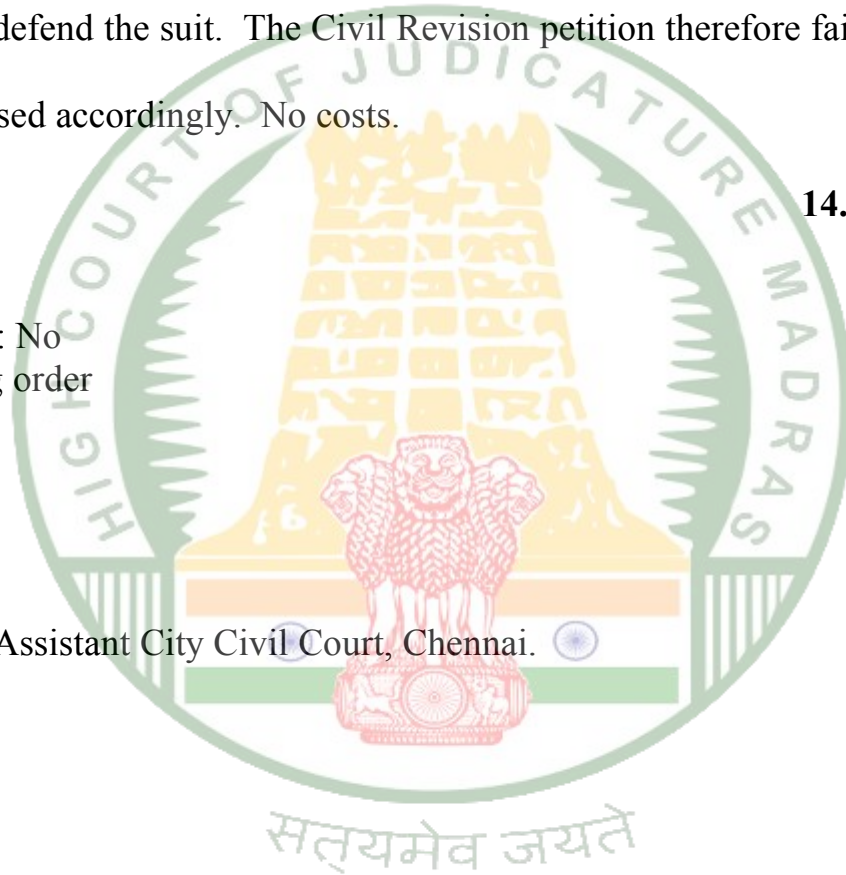
countenance the submissions of the learned counsel for the petitioner to the effect that the defendant has got a plausible defence in the suit and he would be entitled to leave to defend. I, therefore, see no illegality or irregularity in the order of the trial Court, dismissing the application for leave to defend the suit. The Civil Revision petition therefore fails and it is dismissed accordingly. No costs.

14.09.2020

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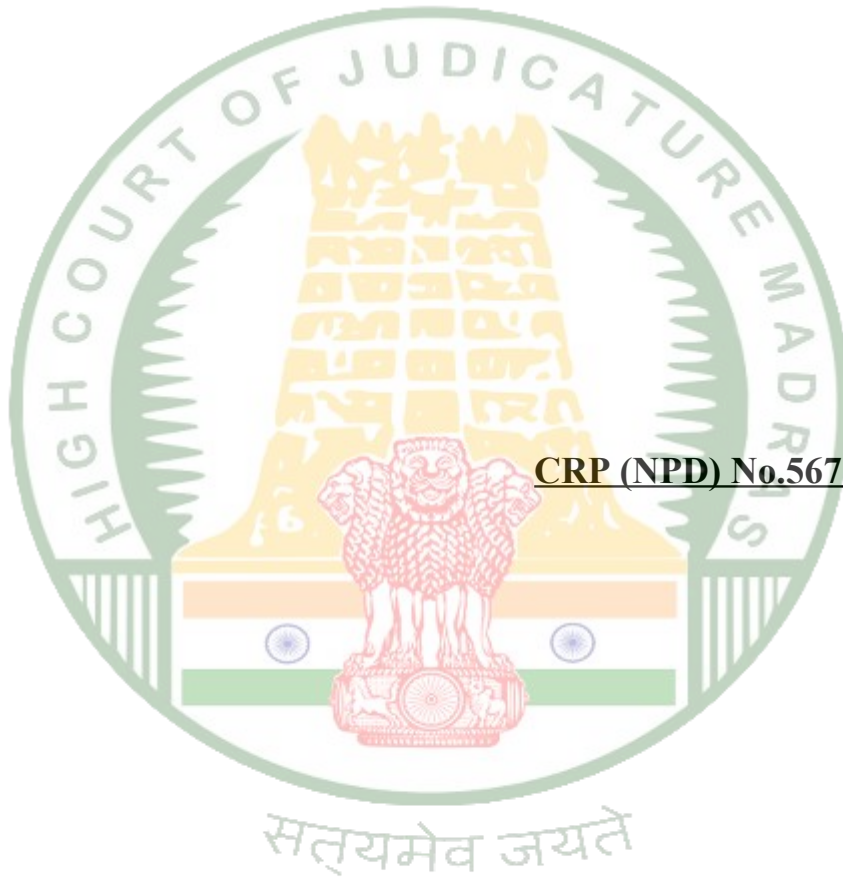
The VII Assistant City Civil Court, Chennai.



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R.SUBRAMANIAN, J.

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