

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 01.07.2021

PRONOUNCED ON: 05.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P. (PD) No. 970 of 2021

And

C.M.P.No. 7807 of 2021

1. R.Gayathri
2. A.Nageswari
3. P.Sheela
4. P.Dillibabu

... Petitioners/Respondents/Defendants

-Vs-

1. Mohammed Shuaib Musveen
2. Shagufta Musveen ... Respondents/Petitioners/Plaintiffs

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, 1908 against order dated 19.02.2018 passed in I.A.No. 1175 of 2018 in O.S.No. 281 of 2018 on the file of the Principal District Judge, Chengalpattu.

For Petitioners : Mr. C.Umashankar

For Respondents : Mr. Selva Sekaran

ORDER

This Civil Revision Petition has been filed by the defendants in O.S.No. 281 of 2018 questioning the order dated 19.02.2021 in I.A.No. 1175 of 2018 pending on the file of the Principal District Court, Chengalpattu.

2. O.S.No. 281 of 2018 had been filed by the plaintiffs for a decree and Judgment against the defendants to deliver vacant possession of the suit schedule property by ejecting the said defendants and for a further direction to pay a sum of Rs.41,14,640/- payable as on 01.08.2018 under the lease agreement dated 30.11.2012 and 24.03.2017 together with interest at the rate of 18% p.a., and also for a further direction to pay monthly rent of Rs.2,25,000/- as damages for every month till possession is delivered and for costs.

3. It had been stated in the plaint that the plaintiffs are the owners

of the property situated at old No. 33, New No.12, Nehru Street, Sholinganallur, Chennai – 600 119, measuring about 10 grounds and 307.2844 sq.ft., of land and 5 buildings in a built up area of about 17258.30077 sq.ft. They had purchased the property by a Deeds of Sale dated 03.08.1995 vide document Nos. 3912 & 3913 of 1995 registered in the office of the Sub Registrar, Adyar.

4. A lease agreement had been entered into between the plaintiffs and the fourth defendant on 30.11.2012 for a period 10 years. The fourth defendant was not regular in payment of the rents. The purpose of the lease was to run a woman's Hostel. Thereafter, a new lease deed was entered on 24.03.2017 between the plaintiffs and the first to third defendants for a period of six years. The monthly lease rent was fixed at Rs.2,25,000/-. There was a rental advance of Rs.30/- lakhs which had been paid by the fourth defendant. It was stated that the first and third defendants did not obtain license under the Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act, 2014. They also did not obtain license from the District Collector and also from the Chennai Corporation. On 13.07.2018, the authorities sealed the terrace area where the first to third defendants

were said to be illegally operating the kitchen. The plaintiffs complained to the statutory authorities about the illegal running of the women hostel. The plaintiffs issued a notice dated 08.05.2018 terminating the lease. The first to third defendants did not vacate the premises. It was under these circumstances that the suit had been filed seeking the reliefs as stated above.

5. In the said suit, the plaintiffs filed I.A.No. 1175 of 2018 under Order 38 Rule 5 CPC for a direction against the defendants to furnish security to the value of the suit claim failing which they to attach the movables listed in the suit property. The list of movables were also given to the schedule to the petition.

6. A counter was filed on behalf of the defendants wherein they stated that there had been suppression of material facts in the plaint and the monthly rent and the period of default had not been mentioned.

7. It was claimed that there was no arrears of rent. It was also claimed that substantial money had been invested in modifying the building to suit a women hostel. It had therefore been stated that the application

should be dismissed.

8. The order now under revision was passed on 19.02.2021. In the said order, the learned Principal District Judge stated that the defendants had admitted that they were in arrears of Rs.9,90,000/- and therefore, issued a direction to deposit the said sum on or before 18.04.2021, failing which, the order of attachment which had already been passed on 07.12.2019 shall continue to stand. Questioning that particular order, the Revision Petition had been filed.

9. Mr.C.Umashankar, learned counsel for the revision petitioners pointed out the facts and stated that the revision petitioners had modified the building for the purpose of running a women hostel and there was no arrears of rent and as a matter of fact, the occupants were all IT Professionals and owing to the lock down from March 2020, there were no occupants and it was only for that purpose, the rental amounts could not be paid. However, the learned counsel stated that in the counter filed, there had been no admission that there was rental due of Rs.9,90,000/-. The learned counsel however stated that a memo of calculation had been filed in

which the said amount had been reflected.

10. Mr. Selva Sekaran, learned counsel for the respondents however contested and disputed the said contentions. The learned counsel stated that the rental arrears as on date had soared upto above Rs.40/- lakhs and stated that the defendants are in illegal occupation of the petition premises. It was contended by the learned counsel that the defendants had not obtained license to run a women hostel and therefore contended that a direction must be given to attach the movable properties since the security had not been furnished as directed.

11. When the Revision came up for consideration, by order dated 23.04.2021, the revision petitioners were directed to deposit a sum of Rs.2/- lakhs towards part of the claim on or before 21.05.2021 to the credit of the suit. I am informed that the said condition had been complied with. However, the learned Principal District Judge, Chengalpattu appears to have closed I.A.No. 1175 of 2018. That procedure is not correct. It is seen that the revision petitioners themselves have admitted that there was atleast Rs.9,90,000/- due and payable towards rental arrears. By way of an interim

direction, this Court had directed them to deposit a sum of Rs.2/- lakhs.

12. It is also seen that whether they are running the women hostel legally or illegally are issues which are beyond the scope of the present Revision Petition. However, that they are in occupation is not in doubt. So long as they are in occupation, there is a liability to pay the monthly rents to the respondents herein. The revision petitioners cannot claim indulgence by stating that owing to the occupants not being there, they are not able to pay the rent. They are liable to pay the rent for the petition which is under their occupation. Therefore, a further direction is given directing the revision petitioners to deposit a further sum of Rs.7,90,000/-, which is admitted by the defendants as due and payable towards rental arrears, on or before 30.07.2021 to the credit of O.S.No. 281 of 2018 now pending on the file of the Principal District Court at Chengalpattu.

13. The learned Principal District Judge, Chengalpattu, may revive I.A.No. 1175 of 2018 and if the deposit is not paid as directed proceed further in the manner known to law as is lawfully done with respect to any application under Order 38 Rule 5 of the Code of Civil Procedure.

14. I do not find any reason to interfere with the order of the

learned Principal District Judge except to state that I.A.No. 1175 of 2018 should be revived to record deposit of further sum of Rs.7,90,000/- on or before 30.07.2021 as directed by this Court.

15. A further direction is given to the learned Principal District Judge, Chengalpattu, to dispose of O.S.No. 281 of 2018 by conducting the trial whenever the matter is posted the Special List, on a day to day basis. Even if trial could not be conducted on a day to day basis, the learned Principal District Judge may grant a maximum of three working days in between any two adjournments and avoid granting more than two adjournments for the very same reason. Any trial conducted in the aforesaid manner could be easily concluded within a reasonable period of time.

16. In the result, this Civil Revision Petition is dismissed with the above direction. No order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

05.07.2021

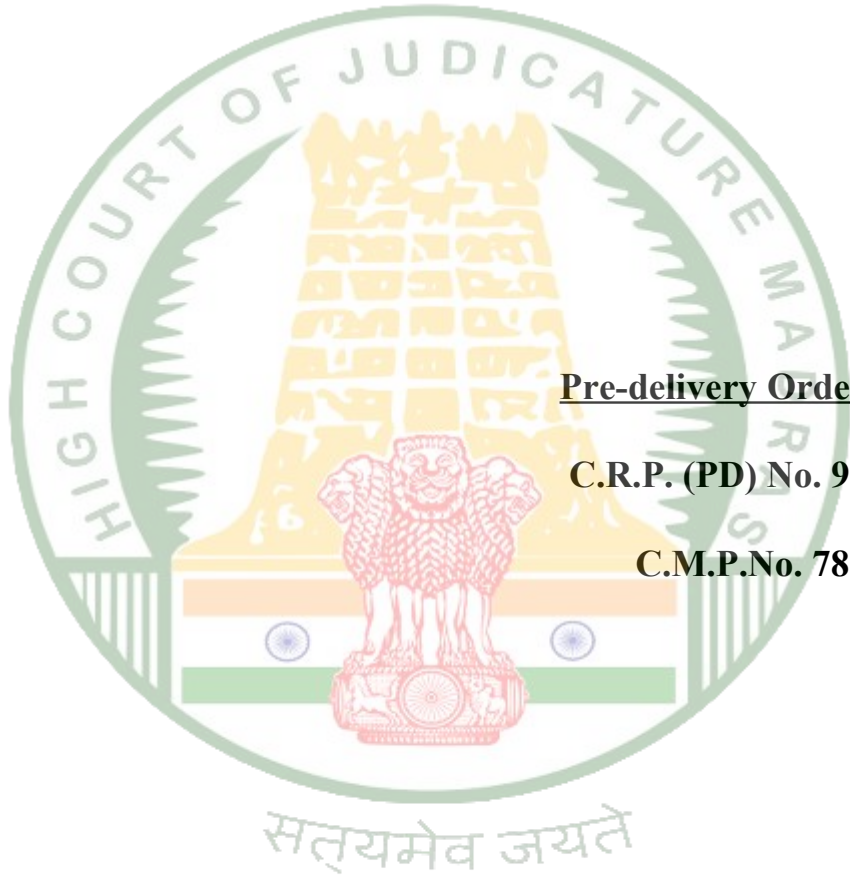
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Speaking / Non speaking

C.V.KARTHIKEYAN, J.

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