IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.09.2021**

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(NPD). No.1719 of 2021
and C.M.P.No.13367 of 2021
(Through Video Conference)

Ramadoss ...Petitioner

Versus

R. Shanthi ...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and decretal order dated 22.01.2021 in I.A.No.1 of 2020 in O.S.No.254/2020 on the file of XVII Assistant City Civil Court at Chennai.

For Petitioner : M/s.S.Arivazhagan

For Respondent : Mr.E.Senthil Kumar
For M/s.Sampathkumaar & Associates

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O R D E R

This Civil Revision Petition is filed to set aside the order passed in I.A.No.1 of 2020 in O.S.No.254 of 2020 on the file of XVII Assistant City Civil Court at Chennai on 22.01.2021.

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2. The petitioner filed I.A.No.01 of 2020 under Order XXXVII Rule 3 (5) of the Code of Civil Procedure, seeking leave to defend the suit. It is seen from the affidavit filed in support of the petition that the petitioner denies the business transactions mentioned in the plaint. The case of the petitioner is that he had no business transactions with the respondent and he never met the respondent. It is his case that he never gave a cheque for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the respondent. The respondent is a total stranger to the petitioner and he had never involved in any business transactions with the respondent. This suit is filed only to extract money from the petitioner. Therefore, he filed this petition seeking leave to defend the suit. This petition was contested by the respondent, reiterating the averments made in the plaint.

3. On considering the rival submissions, the learned XVII Assistant Judge, City Civil Court, Chennai dismissed the petition. The reasoning stated in the order is that the petitioner has not denied the business relationship with the respondent and only stated that the detailed statement was not enclosed. Against the said order of dismissal, the present Civil Revision Petition is filed.

4. The learned counsel for the petitioner submitted and reiterated the case of the petitioner in the proof affidavit and further submitted that the respondent is a complete stranger to him and there was no business transactions with the

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respondent. The respondent /plaintiff claims in paragraph no.5 of the plaint that the petitioner/ defendant herein had paid Rs.2,58,600/- on 02.04.2018.

5. It is the claim made by the learned counsel for the petitioner that the petitioner had never paid the aforesaid amount. The cheque given to some other person as security for a loan transaction, has been misused in this case. Therefore, he prays to set aside the order passed by the learned XVII Assistant Judge, City Civil Court, Chennai for giving an opportunity to project his case.

6. This submission of the learned counsel for the petitioner is opposed by the learned counsel for the respondent. He submitted that the business transactions with the petitioner are true. He again pointed out the reply given by the petitioner wherein there is a specific mention made about the claim now made that the respondent is a stranger to the petitioner. It is rightly found by the learned XVII Assistant Judge City Civil Court, Chennai, that it is a bald denial and it was also said that the petitioner has not enclosed any detailed statement as claimed in the notice.

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7. The learned counsel for the respondent further submitted that the order of the learned XVII Assistant Judge City Civil Court, Chennai, dismissing the petition is based on the materials produced before this Court and it requires no

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interference. Therefore, he prays for sustaining the order passed by the learned XVII Assistant Judge City Civil Court, Chennai and for the dismissal of the present Civil Revision Petition filed before this Court.

8. The Court now deals with only the petition filed seeking leave to defend. Therefore, this Court does not want to go deep into the merits of the case. It is suffice to state that certain serious doubts have been created in the case of the respondent.

9. The respondent claims that the petitioner paid a sum of Rs. 2,58,600/- on 02.04.2018 in connection with the business transaction and it was emphatically denied by the petitioner. Perusal of the records produced in the form of typed set of papers shows that, there is no material filed to show that the petitioner paid Rs.2,58,600/- to the respondent on 02.04.2018 and any receipt or acknowledgment was given to the petitioner. That apart, only invoices were filed and no materials are filed now to show that as per these invoices, goods were supplied and acknowledgment obtained from the petitioner. These are the facts with regard to business transactions, which are seriously disputed.

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10. In the considered view of this Court, these disputed facts will be decided only after recording oral and documentary evidences produced by both sides. Therefore, the order passed by the learned XVII Assistant Judge City Civil Court, Chennai, dismissing the petition filed seeking leave to defend, is setaside. The petitioner is granted permission to defend the suit and the **Civil Revision Petition is Allowed**. No costs. Consequently, connected miscellaneous petition is closed.

11. The learned XVII Assistant Judge City Civil Court, Chennai is directed to give an opportunity to the petitioner/ defendant to defend the suit and proceed to dispose the suit on merits and in accordance with law without being influenced by any of the observations made in this order.

09.09.2021

Index: Yes/ No
Speaking Order / Non-Speaking Order
sts/JAI

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G.CHANDRASEKHARAN, J.,

sts/JAI

To:

The XVII Assistant

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City Civil Court,
Chennai.

Order made in
C.R.P.(NPD). No.1719 of 2021

Dated:
09.09.2021

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