

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.3764 of 2014

and

M.P.Nos.1 & 2 of 2014

1.Sekar Stores Home Mart
Rep. By its Partner

2.S.V.S.Manivannan

3.Geetha Manivannan

Petitioners

Vs.

Ashok Sethia
Carrying on business under the name
And style of Sethia Commercial Syndicate
No.109 Audiapa Naicken Lane
Chennai 600 079.

Respondent

PRAYER : The Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Decretal and Fair order passed by the VII Assistant City Civil Court at Chennai in I.A.NO.12558 of 2013 in O.S.No.2112 of 2013 dated 22.01.2014.

For Petitioners : Mr.T.T.Ravichandran

For Respondent : No appearance

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed against the order of the learned VII Assistant City Civil Judge, dated 22.01.2011 passed in I.A.No.12558/2013 in O.S.No.2112/2013.

2. The Petitioners are the Defendants in the suit.

3. The Respondent /Plaintiff has filed a suit against the Civil Revision Petitioners for recovery of a sum of Rs.3,20,000/- together with an interest on Rs.2,85,000/- at 18% per annum from the date of suit till the date of decree and subsequent interest till the date of realization and costs. In the said suit the petitioners has filed an Interlocutory Application for granting leave to defend. The learned trial Judge instead of appreciating the merits of the leave to defend petition, has given a final verdict. In fact the orders already passed in the connected I.A.Nos.12557, 12559, 12554 and 12555/2013 in O.S.No.2109/2013 have been adopted to dismiss this Interlocutory Application without any speaking order. The learned trial Judge ought to have recorded a finding as to whether there any triable issues arise from the defence proposed to be taken by the defendants and whether the defendants should be given with the opportunity to defend the suit by tendering evidence.

4. On perusal of the affidavit filed by the petitioners, it is seen that the defendants have claimed that they had made some payments and if proper account is taken it would come to light that defendants did not owe any money to the plaintiff. The petitioners have also mentioned some cheque numbers through which the alleged repayment have been made. These factual matters can be dealt with only if the petitioners/defendants are given an opportunity to defend by producing relevant materials. Since the contentions made by the Civil Revision Petitioners on the basis of the facts pleaded by them would show that some triable issues have arisen in this suit, I feel that the petitioners should be granted an opportunity to defend the suit.

In the result, this present Civil Revision Petition is **allowed** and the order of the learned VII Assistant City Civil Judge, dated 22.01.2011 passed in I.A.No.12558/2013 in O.S.No.2112/2013, is hereby set aside. No costs. Consequently connected Miscellaneous Petitions are closed.

WEB COPY

26.07.2021

Speaking/Non-speaking

Index : Yes/No

Internet : Yes/No

jrs

R.N.MANJULA,J.

jrs

To

1. The VII Assistant City Civil Judge,
City Civil Court, Chennai.
2. The Section Officer,
V.R.Section,
High Court, Madras.



C.R.P.(NPD).No.3764 of 2014
and
M.P.Nos.1 & 2 of 2014

WEB COPY 26.07.2021