

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.2719 of 2019
and C.M.P. Nos.25952 & 17941 of 2019

P.N.Gopinath

...

Petitioner /
Defendant

versus

M/s.R.B.Constructions,
Represented by its Proprietor,
S.Venkataramani,
Office at No.2 B,
New No.7 (Basement Floor),
West Road, West CIT Nagar,
Chennai - 600 035.

...

Respondent /
Plaintiff

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the judgment and decree dated 08.04.2018 made in I.A.No.10869 of 2018 in O.S.No.3267 of 2018 on the file of the learned XVI Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.Anil Relwani

For Respondent : Mr.S.Veeraraghavan

ORDER

This Civil Revision Petition is filed challenging the order dated 08.04.2018 passed by the learned XVI Assistant Judge, City Civil Court, Chennai in I.A.No.10869 of 2018 in O.S.No.3267 of 2018.

2. The learned counsel for the petitioner submitted that, the respondent filed the suit in O.S.No.3267 of 2018 claiming a sum of Rs.2,15,733/- together with interest at 24% per annum from the date of plaint to till the date of decree and also for the future interest. The learned counsel for the petitioner submitted that, the plaint claim, is not supported by any cause of action and therefore, Interlocutory Application Order VII Rule 11 of C.P.C. was filed in I.A.No.10869 of 2018. That petition was contested by the respondent. The learned XVI Assistant Judge, on considering the rival submissions, dismissed the petition. Against the said dismissal order, this Civil Revision Petition is preferred.

3. The learned counsel for the petitioner submitted that, there is no agreement between the parties, for paying any charges for the preparation of architectural plan. However, the claim made by the

respondent for a sum of Rs.2,15,733, is not based on any contract and cause of action. He drew the attention of this Court to the letter written by the respondent to the petitioner on 13.03.2018 thanking the petitioner for giving an opportunity for construction of the plot at Jawahar Nagar, Peravalur, Chennai and the plan was enclosed along with this letter. It is his submission that for giving a plan, the petitioner cannot make monetary claim in the plaint.

4. In response, the learned counsel for the respondent submitted that, it is specifically pleaded in the plaint that, the architectural designs by the architect are chargeable and necessary fees have to be paid for the reason that architectural designs are out sourced to another architect. It is also submitted by him that, there were several email communications between the parties. The plan sent by the respondent was seen by the petitioner, suggestions and improvements were given for alterations. Suggestions were accepted, necessary changes were made in the plan. All these emails were filed along with the plaint. The respondent is not claiming amount for preparation of estimate but for the charges paid by him for

architectural designs. Therefore, he prayed for dismissal of this petition and for confirming the order of the learned XVI Assistant Judge, City Civil Court, Chennai.

5. Considered the rival submissions and perused the records.

6. As said above, the suit was filed for recovery of Rs.2,15,733/-. There is no dispute in this case that the petitioner engaged the respondent for preparation of plan and estimate. It is specifically stated in the plaint that, the architectural designs by the architect are chargeable and necessary fees have to be paid to him. There are telephonic conversations and the email communications between the parties on various dates. The petitioner gave inputs to the preparation of plan. As per the inputs, the plans were revised. The respondent sent IV proposal with detailed estimation to the petitioner. Then the petitioner sent emails dated 16.03.2018 and 23.03.2018 stating that "proposed estimate is beyond his budget". Then the revised proposal in the form of V, VI, VII were sent at the request of the

petitioner and ultimately, the project has not taken off. The respondent claimed a sum of Rs.2,15,733/- towards architect drawing plans and proposal charges.

7. As already said, there is no dispute that the petitioner engaged the respondent for preparation of the plan and estimate. The respondent had done the preparation of plan and estimation making several changes as per the request of the petitioner. Whether the plaintiff / respondent, is entitled to claim a sum of Rs.2,15,733/- or not, is a matter of evidence. That cannot be decided now. What we have to consider, is whether the respondent has made out the cause of action for filing this case against the petitioner. As elaborately narrated above, this Court finds that the respondent has made out a cause of action for claiming the amount and filing the case against the petitioner. Therefore, this Court finds that the learned XVI Assistant Judge, City Civil Court, Chennai, has rightly dismissed the petition filed under Order VII Rule 11 C.P.C. and the order, is hereby confirmed.

8. Resultantly, this Civil Revision Petition is dismissed.

Consequently, connected Miscellaneous Petitions are closed. However, there is no order as to costs.

30.09.2021

Speaking order / Non-speaking order
Index : Yes / No

psa / sri

To

The XVI Assistant Judge,
City Civil Court,
Chennai.



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G.CHANDRASEKHARAN, J.

psa \ sri



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