



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2021

CORAM

THE HON'BLE MR. JUSTICE PARESH UPADHYAY
AND
THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

O.S.A.No.331 of 2021
and
C.M.P.No.20996 of 2021

1.Rosline

2.S.Susai Raj

..Appellants

Vs

1. The Official Assignee,
High Court, Madras.

2. S.M.Maria Dorch

..Respondents

Appeal preferred under Order XXXVI Rule 5 of O.S. Rules r/w Clause 15 of Letters Patent against the order dated 08.10.2021 made in Appln.No.69 of 2014 in I.P.No.94 of 2010.

Prayer in Appln.No.69 of 2014 in I.P.No.94 of 2010: Application praying this Hon'ble Court be pleased to (i) Pass an order directing 3rd respondent to pay a sum of Rs.5,28,000/- to the official Assignee High Court, Madras towards rental arrears for the period from May 2009 to April 2013 (48 months x Rs.11,000/-) (ii) Pass on order directing the 3rd Respondent to pay a sum of Rs.2,25,000/- to the official Assignee, High Court, Madras being the rental arrears for the period from May 2013 to January 2014 (9 months x Rs,25,000/-) (iii) Pass an order directing 3rd Respondent to pay monthly rent at Rs.25,000/- to the official Assignee, High Court, Madras per month from February 2014 onwards.

For Appellants .. Mr.V.Ayyathurai
Senior Advocate
for Mr.R.Rajmohan



JUDGMENT
(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order of learned Single Judge dated 08.10.2021 recorded on Appln.No.69 of 2014 in I.P.No.94 of 2010. Paragraphs 29 to 31 read as under:

"29.The prayer in the application is three folds. The first part of the prayer relates to the payment of rent upto April 2013, the second part relates to rent between May 2013 and January 2014. The Official Assignee has claimed rent at different rates for the two periods. The contractual rent as per the lease agreement is only Rs.11,000/- per month. The Official Assignee cannot seek enhanced rent without there being any agreement or any determination of the rent as between the parties. It is not in dispute that the tenant has paid rents up to November 2009. This application has been filed on 21.02.2014. Therefore the Official Assignee can claim rents only for a period of three years prior to the filing of the application i.e. from March 2011.

30.For the foregoing reasons, the Application No.69 of 2014 stands partially allowed and there will be a direction to the third respondent/tenant to pay rent at the rate of Rs.11,000/- p.m. from March 2011 and continue to pay at the same rate till the disposal of the suit. The arrears of rent that is the rent for the period from March 2011 till September 2021 is Rs.13,86,000/- shall be paid on or before 31.12.2021.

31.Post for reporting compliance on 03.01.2022."

2. From records it transpires that one of the appellants is directed to do something before 31.12.2021, compliance of which is to be reported on 03.01.2022.

3. Learned Senior Advocate for the appellants has addressed the Court at length including by referring to the order of the Division Bench of this Court dated 01.11.2016 on O.S.A. Nos.154 to 156 of 2015 to contend that the impugned order is unsustainable. Learned Senior Advocate has also submitted that it is an attempt on the part of petitioners in I.P.No.94 of 2010 to defraud the appellants and learned single Judge has not taken



into consideration that aspect. It is submitted that the impugned order be interfered with.

4. Having heard learned senior advocate for the appellants and having considered the material on record, this Court finds that, as the record stands before learned single Judge, the third respondent (in the proceedings before learned Single Judge) is in default in payment since the year 2013, which is around Rs.11,000/- per month. What is ordered by the impugned order, which is an interim order so far insolvency proceedings is concerned, that the said arrears, which comes to Rs.13,86,000/- be paid. We do not find any error so far this direction is concerned, worth being interfered with in this appeal.

5. If the argument of the learned senior advocate for the appellants is right as sought to be canvassed in this appeal, that can certainly be taken care of while recording final order in the insolvency petition.

6. With the above observation, this Original Side Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mmi/6

To

1. The Official Assignee,
Original Side, High Court, Madras.

2. The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1cc to Mr.R.Rajmohan, Advocate, S.R.No.68953

+1cc to Mr.V.B.PerumalRaj, Advocate, S.R.No.68481

+1cc to M/s.Tatva Legal Chennai, S.R.No.69228

+2cc to Mr.V.B.PerumalRaj, Advocate, S.R.No.68481 (06/01/2022)

O.S.A.No.331 of 2021

JPL(CO)

RGA(29/12/2021) (06/01/2022)