



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.S.No. 126 of 2021

A.Tharanyaa

... Plaintiff

Vs.

1. M/s. Industrial Mineral Company
Rep. by its Partner
Mr.S.Chandrasen
2, K.R.M. Centre, 5th Floor
Harrington Road
Chetput
Chennai – 600 031.
2. Mr.S.Chandrasen
Partner
M/s. Industrial Mineral Company
2, K.R.M. Centre, 5th Floor
Harrington Road
Chetput
Chennai – 600 031

...Defendant

Prayer : Plaint filed under Order VII Rule 1 CPC read with Order IV Rule 1 of OS Rules, to pass a Judgment and Decree



a) directing the defendants to jointly and severally pay the plaintiff the sum of Rs.1,65,00,000/- together with interest at the rate of 18% per annum from the date of plaint till full payment.

b) directing the defendant to pay the plaintiff the costs of the suit;

For plaintiff : Mr. Santhosh Kumar
for Ms. AL. Ganthimathi

For defendants: Mr. J.Titus Enoch
(set exparte)

ORDER

The plaintiff, proprietrix of Tharanyaa Warehouse is situated at Tuticorin, had instituted the present suit seeking a direction against the defendants to jointly and severally pay a sum of Rs.1,65,00,000/- together with interest at the rate of 18% p.a., and for costs of the suit.

2. The defendants were carrying on business in Garnet sand mining around Tiruchendur and Tuticorin. They had taken on lease the Warehouse godown situated at S.No. 51/4, Tiruchendur Road, Mullakadu Village, Tuticorin, measuring 52500 sq.ft., from the plaintiff. A lease deed had been



entered into for a period of one year for the period from 06.09.2014 to 06.09.2015. The monthly rent was fixed at Rs.4.75 per sq.ft., excluding service taxes. Another agreement was entered into for the period 01.10.2016 to 31.03.2017. On 01.10.2016 the rent was refixed at Rs.10.50 per sq.ft., and later again to Rs.11.50 per sq.ft., from 01.04.2017 onwards. The period was extended upto 30.09.2017.

3. The defendants took possession. They surrendered an area of 15,000 sq.ft., and continued in occupation of 37,850 sq.ft.

4. It is claimed that the defendant paid the lease rent upto January 2018 and had not paid any further amount. The plaintiff came to understand that the jurisdictional District Collector had placed the building under lock and seal holding that the Garnet sand mined and stored by the defendants were illegally procured with relation to the open of the building and to remove the lock and seal, the plaintiff had filed W.P.No. 4717 of 2020 before the Madurai Bench of Madras High Court and it is stated that the writ petition is pending.



5. This suit had been filed against the defendants based on the lease deed for payment of the arrears of lease rent.

6. The defendants had been served on 07.04.2021. The Registry had put up a note that they had not filed the written statement. However, Mr. J. Titus Enock had entered appearance on behalf of the defendants. Since the defendants had not filed written statement, they were set aside by order dated 23.03.2022. The plaintiff was directed to tender evidence.

7. The authorised representative Mr. T. Arunan of the plaintiff was examined as PW-1. The letter of authorisation dated 18.07.2022 was marked as Ex. P-1. The printout of Form 26 as TDS statements of the plaintiff for tax deducted by the first defendant for the assessment years 2015-2016, 2016-2017, 2017-2018 and 2018-2019 were marked as Exs. P-3 to P-6. The certified copy of the bank statement of the plaintiff with Tamilnadu Mercantile Bank and with HDFC Bank for the period 01.04.2015 and 07.03.2016 and for the period 05.04.2017 and 31.03.2018 were marked as Exs. P-2 to P-7. The plaintiff also issued two notices dated 12.12.2019 and 19.12.2020. The copies of the notices were marked as Exs. P-8 and P-9.



Ex.P-9 had been received by the defendants. The statement of account of the plaintiff was marked as Ex.P-10.

8. This Court had raised the issue of jurisdiction.

9. The learned counsel for the plaintiff placed reliance on Clause 12 of the Letters Patent and stated that if the defendants dwells within the jurisdiction of this Court then this Court has jurisdiction. The first defendant is a partnership firm and has an office at Chennai and the second and third defendants are also, according to the learned counsel for the plaintiff are residing / carrying on business at Chennai.

10. It is therefore insisted by the learned counsel that the Court is vested with jurisdiction.

11. In view of the evidence produced, which indicate that the defendants had not paid the rents from January 2018 and the defendant is in possession of the premises and without entering into any discussion relating to the proceeding in W.P.No. 4717 of 2020 which is now pending before the Madurai Bench of the Madras High Court and which has to be examined on



the basis of the averments in that particular Writ Petition, a decree is passed as prayed for with costs.

Vsg

28.11.2022

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking Order

1. List of Witnesses Examined:-

Plaintiff:

P.W.1 – Mr. T.Arunan

Defendants : Nil

2. List of Exhibits Marked (by consent):-

1. Ex.P1 is the letter of authorisation dated 18.07.2022;
2. Ex.P2 is certified copy of the bank statement of the plaintiff with Tamilnadu Mercantile Bank for the period 01.04.2015 to 07.03.2016;
3. Ex.P3 is the printout of the form 26 as TDS statements of the plaintiff for Tax deducted by the 1st defendant's assessment year 2015-2016;
4. Ex.P4 is the printout of the form 26 as TDS statements of the plaintiff for Tax deducted by the 1st defendant's assessment year 2016-2017;



5. Ex.P5 is the printout of the form 26 as TDS statements of the plaintiff for Tax deducted by the 1st defendant's assessment year 2017-2018;
6. Ex.P6 is the printout of the form 26 as TDS statements of the plaintiff for Tax deducted by the 1st defendant's assessment year 2018-2019;
7. Ex.P7 is the certified copy of the bank statement of the plaintiff with HDFC Bank for the period 05.04.2017 to 31.03.2018;
8. Ex.P8 is the office copy of the notice dated 12.12.2019;
9. Ex.P9 is the office copy of the notice dated 19.12.2020 along with postal acknowledgment card;
10. Ex.P10 is the office copy of the statement of account maintained by me;

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C.V.KARTHIKEYAN, J.
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