



A.S.Nos.967 and 948 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

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&

M.P.Nos.1,1 of 2015

1.The Area Manager
Food Corporation of India
District Office
Power House Road
Tatabad, Coimbatore-641 012

2.The General Manager
Food Corporation of India
Door No.124,Greames Road
Chennai-600 006

.. Appellants in both the cases

Vs.

1.S.Kandasamy

.. Respondent in A.S.No.967 of 2015

2.K.Sudha

.. Respondent in A.S.No.948 of 2015



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Common Prayer:- These Appeal Suits have been filed against the judgment and decree dated 20.03.2015 in O.S.Nos.67 and 66 of 2012 on the file of the Principal District Judge, Tiruppur and dismiss the suit.

For Appellants : Mr.S.Vijayakumar
in both cases for
Mr.G.Bharadwaj

For Respondents : Mr.N.S.Sivakumar
in both cases

COMMON JUDGMENT

(Judgement of the Court was made by S.S.SUNDAR,J.)

The defendants who are the lessees in respect of the godown premises owned by the plaintiffs in two suits O.S.No.66 and 67 of 2012 are the appellants in the above appeals.

2. The appellants are the Food Corporation of India represented by the Area Manager Coimbatore and the General Manager, Food Corporation of India, Chennai who are the defendants in the suit.



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3. The respondent in A.S.No.967 of 2015 is the husband and respondent in A.S.No.948 of 2015 is the wife who filed the independent suit in O.S.Nos.67 and 66 of 2012 respectively for recovery of a sum of Rs.20,00,000/- in each suit, as damages and compensation for the breach of agreement committed by the defendants/appellants and consequential relief. Since the two suits are filed by husband and wife on the basis of identical lease agreements for identical reliefs against the common defendants, these Appeals are also disposed of by this common judgment.

4. It is admitted that the plaintiff in the two suits have entered into independent lease agreements in respect of their independent godown premises measuring about 46,000 (each) sq.ft of area constructed in Kottamangalam village, Udumalpet Taluk on 28.08.2009 with the appellants. The lease agreements dated 28.08.2009 contains identical clauses indicating that the lease commence from the date of lease agreement and it is for a period of one year terminable and renewable at the option of the lessee by giving one month notice. As per the agreement, a sum of Rs.1,65,000/- calculated at the rate of Rs.3.6/- per sq.ft was arrived



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at as monthly rent for each of the godown.

5. However, it is admitted that the appellants have not occupied the premises even after the commencement of lease from the date of lease dated 28.08.2009. It is the specific case of respondent that, after the execution of lease deed, the plaintiff was repeatedly asking the defendants to occupy the building as per the lease agreement and that defendants did not respond to their request till the completion of one year.

6. It is the further case of plaintiff that the appellants did not terminate the lease agreement to enable the plaintiff to occupy the building and to use the same by leasing it to third parties. Since the lease deed is registered as required under the Transfer of Property Act, the plaintiff also pleaded that on account of encumbrance by registered lease agreement, the plaintiff in the respective suits could not use the building. Therefore, the respective lessors filed the suit for recovery of money by way of damages and compensation, the actual loss of rental income for one year period.



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7. The suits were contested by the appellants on several grounds. It is specifically pleaded in the written statement that lease agreement was never acted upon by the parties and parties had no intention to act upon the lease agreement. Further, the appellants stated that lessors did not handover the possession of the godown premises to them and therefore the tenancy did not commence as per the agreement. It is contended that the plaintiffs in the respective suit have not done the initial repairs as contemplated under the agreement. The appellants further contended that the plaintiff in both cases did not show any interest in handing over possession of the premises to the appellants and that therefore there is no legal obligation on the part of the appellants/defendants to pay any amount by the damages for use and occupation of the building or as rent payable under the lease agreements.

8. Additional written statement was also filed. This Court finds no other valid ground is raised in the additional written statement except the allegations that the plaintiffs ought to have cancelled the lease.

9. The Trial Court has framed the the following issues in both the



suits:

1) Whether the plaintiff is entitled for a decree for Rs.20,00,000/- as damages and compensation for the breach of agreement committed by defendants with interest as prayed for?

2) To what relief the parties are entitled to ?

10. Before the Trial Court, the plaintiff in O.S.No.67 of 2012 examined himself as P.W.1 and one Periyasamy as P.W.2 and marked Exs.A1 to A16. The appellants examined one Manivannan as D.W.1 and marked Exs.B.1 to B.3.

11. Since there is no dispute with regard to the execution of the lease agreement and commencement of lease as per Exs.A1 and A.7, the Trial Court held that the lease had commenced from the date of lease agreement and that the plaintiff is entitled to decree for a sum of Rs.20,00,000/- as damages and compensation by way of lease amount payable by the appellants to the plaintiff with interest at 18% from the date of filing suit till the date of decree.



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12. The judgement and decree of the Trial Court in the two suits are challenged by the defendants in the above Appeals, mainly on the ground that the lease agreement was never acted upon and that the plaintiff did not hand over possession pursuant to the lease agreement. Stating that the liability to pay rent comes only from the date of occupation by the defendants, it is contended that the compensation fixed by the Lower Court on the basis of lease amount is unsustainable.

13. The learned Senior counsel appearing for the appellants submitted that there is no question of payment of damages as claimed by the respondent/plaintiff when the appellants had not occupied the property due to non suitability of the premises. Learned Senior counsel pointed out from the terms of lease that plaintiffs have agreed to carry out the initial repairs. The learned Senior counsel submitted that the plaintiff did not come forward to carry out repairs and the appellants found that the premises is not suitable or in tenantable condition and therefore they could not occupy the premises in terms of lease agreement. Learned Senior counsel submitted that interest component at 18% is on the higher side.



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14. On contra, learned counsel appearing for the respondents submitted that the lease agreement is admitted and that the plaintiff in each case was deprived of their respective rights to enjoy the property. Referring to the agreement, where the option to terminate the lease is given only to the appellants/lessee, it is contended that the plaintiff is entitled to collect the rental amount payable by way of damages for the period of one year during which the lease was in force.

15. The learned counsel also submitted that the appellants have admitted to the specific averments made in para 6 of the plaint to the effect that the appellants entered into agreement only after the inspection made by the 1st defendant who is the Area Manager. Referring to the fact that no communication was addressed by the appellants after commencement of lease to repair or complaining that they have not secured possession, the counsel submitted that the contention of appellants that possession was not handed over to the appellants is not sustainable.



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16. This Court considered the specific pleadings and the grounds raised by the appellants before this Court and the arguments of learned counsel appearing for the respondent in both Appeals. The only point that arise for consideration is whether the appellants in both Appeals are liable to pay the lease amount agreed for the period of one year when the lease was in force.

17. First of all, from the terms of lease agreement dated 28.08.2009, this Court finds that the lease deed was for a period of one year from the date of lease agreement. The lease agreement is for the specific period from 28.08.2009 to 27.08.2010 and therefore there cannot be any doubt as regards the commencement of lease.

18. As per Sec.105 of Transfer of property Act,1882, a lease is a transfer of a right to enjoy the property for a certain time, express or implied in consideration of a price paid or promised. Therefore, in terms of the lease agreement, the lease is for a period of 28.08.2009 to 27.08.2010 subject to the option for renewal and terminable at the option of lessee by



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giving one month notice in writing.

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19. In this case, admittedly, there was no termination of lease after the execution of the lease agreement. The specific clauses agreed between the parties indicate the period of lease and money payable as lease amount under the agreement.

20. Even though the appellants contend that they have not occupied the premises due to certain repair works to be attended by the plaintiffs, the lease deed specifically permit the lessee to carry out such repairs in case the lessor did not attend the repairs and to adjust the amount spent towards repairs from the lease amount to be paid by the lessee to the lessor.

21. Having regard to the specific terms of the agreement, the contention that the appellants did not occupy the premises cannot be cited as a reason to wriggle out of contractual obligations of the appellants on account of the terms of the lease.



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22. The specific contention of the appellants that lease agreement was never acted upon could not be accepted especially having regard to the terms of the agreement and stand taken by the appellants themselves in the written statement about the execution of the lease agreement after the inspection of the building. The Trial Court has rightly held that the plaintiffs are entitled to a sum of Rs,19,87,200/- each towards lease amount payable for the period of lease. The Trial Court of course has granted 18% interest, even though the lease deed does not contemplate payment of interest. However, this Court is of the view that interest can be reduced from 18% to 12% considering the fact that the appellant is a Statutory Corporation serving public by distributing essential commodities like food grains for the benefit of public.

23. Accordingly, the Appeal Suits are partly allowed modifying the judgement and decree passed in O.S.Nos.66 and 67 of 2012 on the file of Principal District Judge, Tiruppur dated 20.03.2015 only to the extent by reducing the rate of interest from 18% to 12%. In all respects the judgment and decree in both suits are confirmed. No costs. Consequently, connected



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miscellaneous petitions are closed.

(S.S.S.R.J) & (P.B.B.J)
14.02.2023

Internet : Yes
Index:Yes/No
Speaking/Non-speaking order
Neutral Citation:Yes/No
To

1. The Principal District Judge, Tiruppur
- 2.The Record Keeper, VR Section,
High Court, Madras

S.S.SUNDAR, J.,
and
P.B.BALAJI, J



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