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C.R.P. No.2513 of 2023 &
C.M.P.Nos.15556 and 20217 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

**Civil Revision Petition No.2513 of 2023 &
C.M.P.Nos.15556 and 20217 of 2023**

1. M/s Intermed
A Partnership Firm
rep. By its Partner Mr.Ajay K.Mehta
2. Paresh K.Mehta
3. Ajay K.Mehta
4. Geetha P.Mehta
5. Sonal A.Mehta

...Petitioners

Vs.

G.Azariah

...Respondent

Civil Revision Petition filed under Article 227 of the Code of Civil Procedure to set aside the fair and decreetal dated 20.02.2023 made in I.A.No.2 of 2023 in RLTA No.1 of 2023 on the file of the learned Subordinate Judge, Poonamallee against R.L.T.O.P. No.34 of 2021 dated 29.09.2022 on the file of Principal District Munsif cum Rent Court at Poonamallee.

For Petitioners : Mr.C.Ravichandran for
Mr.P.Gunaraj

For Respondent : Mr.N.Nagusah



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ORDER

The present petition has been filed to set aside the fair and decreetal dated 20.02.2023 made in I.A.No.2 of 2023 in RLTA No.1 of 2023 on the file of the learned Subordinate Judge, Poonamallee against R.L.T.O.P. No.34 of 2021 dated 29.09.2022 on the file of Principal District Munsif cum Rent Court at Poonamallee.

2. The brief facts of the case are as follows:-

Originally, the Respondent filed R.L.T.O.P No.34 of 2021 before the Principal District Munsif cum Rent Court, Poonamallee under Sections 21(2)(a) & 23 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 for the reliefs of Eviction of respondents from the petition mentioned premises. The learned Rent Court had allowed the petition and directed the petitioners to vacate the petition premises within one month from the date of order, in default, the court below ordered that the respondent was entitled to evict the petitioners by due process of law, the respondent was also entitled for compensation to the tune of Rs.4,00,926/- per month from 01.11.2020 till the petitioners are vacating the petition premises. Aggrieved by the same the petitioners herein filed an appeal in R.L.T.A No: 1 of 2023 along with an I.A. to stay the operation of the order passed by the rent court in R.L.T.O.P No.34 of



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2021 dated 29.9.2022, on the ground that since the petition premises is registered under Factories Act, RLTOP is not maintainable. The appellate court by its order dated 20.02.2023 had dismissed the stay petition filed by the petitioners herein, hence the present Revision.

3. The learned counsel for the petitioners would contend that the petition premises are factory premises registered under the Factories Act, 1948, inclusive of both the Plot No.4, G.K. Industrial Estate and No.19, Alapakkam Main road, Aalapakkam being a pharmaceutical factory namely M/s. Intermed, established in both the said premises, being an integral part and carrying out the activity of manufacturing of drugs and cosmetics, which will not come under the definition of the premises under Section 2(f) of the said Act 39/2018 and is exempted from the purview of the Tamil Nadu Act No.42/2017, as amended by Tamil Nadu Act No.39/2018 and therefore, R.L.T.O.P No.34/2021 is not at all maintainable, before the Rent court.

4. The learned counsel for the petitioners also contend that the petitioners herein had entered into a Lease Agreement with the respondent/landlord for the purpose of manufacturing of drugs and cosmetics under the name and style of M/s.Intermed, which is a registered premises under the Factories Act 1948 and hence the lower court erred in



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holding that the petition premises is not a registered as a factory premises under the Factories Act 1948 is not germane and patently erroneous. M/s.Intermed as a whole factory is composed of the Plot No.4, Arcot Porur Road and Door. No.19, Alappakkam Main Road, or Alapakkam Arcot Road, Alapakkam and both the said premises is jointly registered premises under the Factories Act as Intermed Factory and is located in both the premises and the approved sketch duly signed for registration by the Factory Registration Authority and the Factory Registration Certificate issued under the Factory Act 1948 covered both the petition premises and the Plot.4, G.K.M Industrial Estate. The lower court had erred in holding that though identical on face of it, they are different properties and hence cannot state that the petition premises is not a registered under the Factories Act 1948 .

5. That apart, the learned counsel for the petitioners would contend that the Factories Registration Certificate marked as Ex.R7, shows as Plot No.4, No.19, Alapakkam Arcot Road, G.K. Industrial Estate, Porur Poonamallee Taluk and the petition premises are registered under Factories Act. The court below ought to have granted an order of interim stay to stay all further proceedings in R.L.T.O.P No.34 of 2021 dated 29.09.2022, since the petition premises is a premises registered under the Factories Act 1948 and R.L.T.O.P is not at all maintainable and hence the



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decree dated 29.09.2022 made in R.L.T.O.P.No. 34/2021 is also liable to be stayed by allowing the I.A.No.2 of 2023 in R.L.T.A. No.1 of 2023.

Further, the respondent cannot execute the null and void decree, which had been passed by the court below having no jurisdiction in E.P.No.1 of 2023 pending on the file of the learned Principal District Munsif, Poonamallee and in that event, the petitioners will put in to irreparable hardship as on date they are running a pharmaceutical company in the global level market and registered under the Factories Act 1948 and having more than 300 employees and their families are dependent for their livelihood on the said Intermed Factory on the basis of this order and on the other hand no prejudice will be caused to the respondent herein, if an order of interim stay is granted.

6. Per contra, the learned counsel for the respondent would contend that the premises bearing door No.4, G.K. Industrial Estate, Arcot Road and the petition tenancy premises bearing door No.19, Alapakkam Main Road are two different premises and owned by different owners. Rule 62 and 68 of the Drugs and cosmetics Act mandates that if the manufacture of drugs and cosmetics is carried on in different premises, then, a separate drugs and cosmetic licence have to be obtained.



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7. The learned counsel for the respondent projects a plea that on a careful perusal of the additional document, viz., factory renewal licence produced by the petitioners, it could be seen that the factory licence alleged to have been issued in the name of the petitioners only in respect of door No.4, G.K. Industrial Estate, Arcot Road, but it appears the petitioners have played fraud in obtaining the factory license to appear as though No.4, G.K. Industrial Estate, Arcot Road and the petition tenancy premises No. 19, Alapakkam Main Road, are one and single premises owned by a single owner. Further, the court below has rightly passed an order dated 29.09.2022 in RLTOP NO. 34 of 2021 directing the petitioners to pay compensation being the double the rent i.e., at the rate of Rs.4,00,926/- per month from 01.11.2020 till the petitioners deliver the vacant possession, apart from granting the relief of eviction. Moreover, the petitioners having paid only the contractual monthly rent or Rs.2,00,463/- per month for the period 2,00,463/- per month from 01.11.2020 to 31.01.2023 for 27 months amounting to Rs.54,12,501/-. Therefore, without prejudice to above contentions regarding the merits of the above appeal, unless the petitioners pays the above arrears of compensation of Rs.54,12,501/- to him, they do not deserve any indulgence from this Court for the grant of any order of interim stay.

8. Heard the learned counsels on either side and perused the documents placed on record.



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9. It is relevant to note that the learned counsel for the petitioners by relying on the definition under Section 2(f) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017, would submit that the respondent/tenant is running a factory in the petition mentioned premises and the same is exempted from the Act, thus the said order suffers from Coram Non Judice, it is necessary to extract the word 'Premises', which is defined under the above said provision and the same runs as follows:-

““premises” means any building or part of a building which is, or is intended to be, let separately for the purpose of residence or for commercial or for educational use, except for industrial use and includes—

(i) the garden, grounds and out-houses, if any, appertaining to such building or part of the building;

(ii) any fitting to such building or part of the building for the more beneficial enjoyment thereof, but does not include hotel, lodging house, dharamshala or inn, or the like;

Subsequently, the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants (Amendment) Act, 2018 was enacted and sec 2(f) was amended as follows:-

(3) in clause (f), for the expression “except for industrial use”, the expression “except the premises registered under the Factories Act, 1948 (Central Act LXIII of 1948)” shall be substituted;”

10. Besides the above, the learned counsel for the petitioners in



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support of his contention relied on T.K Ayub v. Mohammed Hanif reported in 2010(4) CTC 299 and M/S National High Way Authority of India vs. B. Seenaiah and company reported in 2015 SCC online cal 412.

11. On going through the documents, the court below has rightly stated that the certificate under Ex.R7 and Ex.R.8 are in respect of premises different from that of the petition premises and that the address in the license marked is Ex.R7, as Plot No.4, No.19, Alapakkam Arcot Road, G.K.Industrial Estate, Porur, Poonamallee Taluk. The petition premises is situated at Alapakkam Main Road, Alapakkam, Porur, Chennai. Upon patent perusal of the address in the petition and the address in the registration certificate marked as Ex.R7, one would come to a conclusion that both pertain to the same premises, but when the certificate under Ex.R7 is appreciated on par with the boundaries given in the schedule to the petition premises, it becomes clear that the respondents property at No.4, Industrial estate, Arcot Road, Porur, which forms eastern boundary of the petition premises, is the property described in the license under Ex.R7 and that the petition premises is the property described in the license under Ex.R.7 and that the petition premises and the eastern boundary premises though identical on the face of it, are infact different properties. Accordingly, it becomes clear that the petition mentioned premises is not a registered as a factory under Factories Act and Ex.R7 and Ex.R8 do not pertain to the petition premises.



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12. It is pertinent to note that a document, namely, licence to manufacture drugs issued by the Director of Drugs Control, Chennai dated 11.09.2021 has been produced by the petitioners to substantiate the claim that both the premises are used to manufacture drugs. Whereas, the respondent on the other side had submitted a reply from RTI dated 16.11.2017 issued by the Director of Drugs Control stating that Drugs License under the provisions of Drugs & Cosmetics Act 1940 & Rules 1945 have been issued for the premises situated at No.4 G.K.Industrial Estate, Arcot Road, Porur, Chennai-116 as no Drugs License have been issued for the premises situated at Door,No.19, Alapakkam Main Road, Chennai-116. That apart, the respondent have also filed an additional typed set of papers containing the web page and Google Maps of M/s.Intermed laboratories wherein the address is shown only as Plot No.4, G.K.. Industrial Estate, Arcot Road, Porur and not the petition premises, viz., Door,No.19, Alapakkam Main Road, Chennai-116.

13. A mere glance of the document, namely, licence, which was issued by the Director of Drugs Control, Chennai dated 11.09.2021 to manufacture drugs, [produced by the petitioners] would reveal that the said license has been obtained only after filing of the R.L.T.O.P., which was on 29.07.2021, therefore, the appellate court as well as the court below have considered all the necessary documents and rightly rejected the contention of the petitioner, which is perfectly valid in the eye of law.



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14. In view of the above discussions, this Court is of the view that the order passed in I.A.No.1 of 2023 does not require any interference in the hands of this Court and the present Revision is dismissed. Consequently connected miscellaneous petitions are closed. No costs.

16.11.2023

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order

To

1. The Subordinate Judge,
Poonamallee
2. The Principal District Munsif cum Rent Court
Poonamallee.



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V.BHAVANI SUBBAROYAN J.

ssd

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