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C.R.P. Nos. 227 & 228 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P. Nos. 227 & 228 of 2022
and
C.M.P. Nos. 1175 & 1178 of 2022

1.M/s. NSR Elkemet (P) Ltd.,
Rep., by its Managing Director, Mr. N.R. Mahesh,
No.54, G.S.T. Road, Guindy, Chennai – 600 032.
Also having Registered Office at Chennai – 600 032
No.313/1-B, Medavakkam, Mambakkam Road,
Vengaivasal Village, Selaiyur Post.

2.N.R. Mahesh

.. Petitioners
in both CRPs

Versus

1.Curzon & Co.,
Rep., by its Partners,
Mr.V.R.Bakthavatsalam
Mr.Manoranjitham Bakthavatsalam
Mr.B.Vijay
Mr.B.Gautham

2.V.R.Bakthavatsalam
3.Manoranjitham Bakthavatsalam
4.B.Vijay
5.B.Gautham

.. Respondents
in both CRPs

Civil Revision Petitions filed under Article 227 of the Constitution of

India, to set aside the fair and decreetal order dated 31.03.2021 passed in M.P.

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Nos. 283 of 2019 and 3 of 2020 respectively in R.C.O.P.No.743 of 2018 on the file of XI Small Causes Court, Chennai and thus render justice.

For Petitioners : Mr. S. Saravanakumar
in both the Revision Petitions

For Respondents : Ms. R.V. Gayatri
for RR1, 3, 4 & 5
in both the Revision Petitions

COMMON ORDER

These Civil Revision Petitions have been filed against the order dated 31.03.2021 passed in M.P. Nos. 283 of 2019 and 3 of 2020 respectively in R.C.O.P. No. 743 of 2018 on the file of XI Small Causes Court, Chennai.

2. The revision petitioners are the tenants and the respondents are the landlords. The revision petitioners were inducted as tenants in respect of petition premises on a contractual monthly rent of Rs.3,96,750/- excluding the GST which petitioners agreed to pay. According to the respondents, the revision petitioners / tenant committed default in payment of monthly rent from March 2016 and after repeated demands, the revision petitioners-tenants made part payment. After giving credit to the rents paid, the revision petitioners-tenants are liable to pay Rs.1,04,33,816/- and therefore, a notice dated 16.09.2017 was issued calling upon the revision petitioners-tenants to pay the arrears of rent. In spite of notice, the revision petitioners did not pay the rent,



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hence, the petitioners have filed R.C.O.P. No. 743 of 2018 under Section 10 (2)

(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act, as amended by Act 23 of 1973, for evicting the respondents on the ground of willful default in payment of monthly rents.

3. A counter was filed by the revision petitioners in which they have admitted the tenancy and also the advance of Rs.10 lakhs paid by them. However, it was contended that the leased out land was situated in a low lying area and was unfit for business or industrial purpose. However, the revision petitioners spent a sum of Rs.28 lakhs for levelling the land upto 7 feet height with debris, soil and sand. Further, the revision petitioners renovated the building by spending about Rs.36 lakhs towards construction of superstructure, flooring, wiring etc., Further, for constructing a shed, the revision petitioners have spent Rs.2.01 crores, which include heavy industrial flooring, fixtures and fittings. In all, the revision petitioners spent Rs.2,65,00,000/- for development of the premises. During the year 2018, when the agreement period has come to an end, the revision petitioners requested the respondent to extend the lease for another three years, but it was refused and they were threatened with eviction. Though the respondent agreed to adjust Rs.2,65,00,000/- in the rental arrears and return the balance amount, they have filed the above Rent Control Original

Petition.

It was also stated that the rented premises is an industry with



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machineries, fixtures and fittings in which more than 100 workers are employed and therefore, it is exempted from Section 30 of the Act and prayed for dismissal of the Original Petition.

4. Pending R.C.O.P No. 743 of 2018, the respondent-landlord filed M.P. No. 283 of 2019 under Section 11 (3) of The Act praying to direct the revision petitioners to pay the arrears of rent of Rs.1,15,18,901 apart from Rs.69,456/- towards arrears of GST failing which to stop all further proceedings in R.C.O.P. No. 743 of 2018. The revision petitioners, apart from filing a counter affidavit in M.P. No. 283 of 2019, have filed M.P. No. 3 of 2020 questioning the maintainability of the Original Petition and prayed the trial court to decide the maintainability of the Original Petition as a preliminary issue before taking up further proceedings.

5. The learned Rent Controller taken up both the Petitions together and by a common order dated 31.03.2021, allowed M.P. No. 283 of 2019 filed by the respondent-landlord and directed the revision petitioners-tenant to pay Rs.2,14,24,500/- towards the rental arrears from September 2016 to March 2021 at Rs.3,96,750/- per month on or before 28.04.2021 to the credit of the Original Petition failing which all further proceedings in the Original Petition will be stopped and consequential eviction order will be passed. The revision



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petitioners-tenant were also directed to pay the future monthly rent to the landlords on or before 7th of every consecutive English calendar month. By the same order, the learned Rent Controller dismissed M.P. No. 3 of 2020 filed by the revision petitioners-tenant by holding that the Original Petition is maintainable and the disputes raised by the revision petitioners-tenant can be decided at the time of trial.

6. Aggrieved by the order dated 31.03.2021, the present Civil Revision Petitions are filed by the tenant.

7. Learned counsel for the revision petitioners contend that the learned Rent Controller erred in dismissing the petition filed for questioning the maintainability of R.C.O.P.No.743 of 2018 without looking into the fact that petition mentioned property is only vacant land which was let out to the petitioners herein and the petitioner had put up construction of shed measuring about 45,000 sq.ft of shed and also constructed office measuring an extent of 5000 sq.ft investing huge sum of money for developing the vacant land. The learned Rent Controller ought to have seen the documentary evidence viz., Exs. R1 to R6 relied on by the petitioners to substantiate the fact that only vacant land was let out to the petitioner and the petitioner had developed and superstructure was constructed thereon at a cost of Rs.2,65,00,000/-. The fact



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remains that the revision petitioners have put up construction measuring 45000 square feet and 5000 square feet office. The learned Rent Controller erred in relying on oral statement given by the respondents that as per the lease agreement the “lessor is the absolute owner of land and building” wherein no document of lease agreement was produced before the learned Rent Controller. Therefore, the learned counsel for the revision petitioner submitted that the Original Petition itself is not maintainable, but the learned Rent Controller erroneously dismissed M.P. No. 3 of 2020 filed by the revision petitioners. Accordingly, the learned counsel for the revision petitioners prayed for allowing both the Civil Revision Petitions.

8. Learned counsel for the respondents submitted that the Original Petition was filed for eviction on the ground of wilful default in payment of rent. It is admitted by the revision petitioners that rent was not paid from March 2016. Even after passing the order dated 31.03.2021, directing the revision petitioners to pay the rent arrears, it was not paid.

9. It is an admitted fact that respondent herein has filed R.C.O.P No. 743 of 2018 against the revision petitioners for eviction on the ground of wilful default in payment of rent.

<https://www.mhc.tn.gov.in/judis> 10. Infact, on 24.04.2024, the learned counsel for the petitioner



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undertakes to pay a sum of Rs.3,65,00,000/- i.e., the rentals payable from September 2016 till May 2024 but they failed to comply the undertaking.

Learned counsel for the petitioner submits that the petitioners are not coming forward to fulfill the undertaking. On this ground alone, the civil revision petition is liable to be dismissed.

11. However, considering the facts and circumstances of the case, on consideration of the well founded reasons stated by the Court below in allowing M.P.No.283 of 2019 in its order dated 31.03.2021, this Court finds no merits in the civil revision petitions.

12. In the opinion of this Court, interference of this Court to the reasoned order passed by the Court below in accordance with law is unwarranted.

13. Accordingly, the Civil Revision Petitions are dismissed.

14. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index : Yes / No

Neutral Citation : Yes / No

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AT
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To
The XI Small Causes Court, Chennai.



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BATTU DEVANAND, J.

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