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C.R.P. (PD) No.2210 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition (PD) No.2210 of 2024

&

C.M.P.No.11693 of 2024

Ultrafresh Modular Solutions Limited,
(previously known as Ultrapure Technology and
Appliances India Ltd.),
CB 345, Second Floor,
Ring Road, Naraina Village,
Naraina, New Delhi-110 028.

... Petitioner

-Versus-

M/s. New Abirami Associates,
Partnership Firm Represented
by its Partner, L.N.Letchumanan,
New 808, Poonamallee High Road,
First Floor (Near Panjali Amman Koil),
Arumbakkam, Chennai-600 015.

... Respondent

Prayer : Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 02.01.2024 made in I.A.No.1 of 2023 in C.O.S.No.1003 of 2022 on the file of the learned District Judge, Commercial Court, Egmore, Chennai.



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For Petitioner : Ms.Deepika Murali

For Respondent Mr.Karthik Lakshmanan

ORDER

This Civil Revision Petition arises against the order passed by the learned District Judge, Commercial Court, Egmore, Chennai, in I.A.No.1 of 2023 in C.O.S.No.1003 of 2022 dated 02.01.2024.

2. The civil revision petitioner is the defendant in the suit. C.O.S. No.1003 of 2022 is the suit for recovery of a sum of Rs.36,66,986.10 (Rupees Thirty Six Lakhs Sixty Six Thousand Nine Hundred and Eight Six and ten paise only). The plea of the plaintiff is that it was appointed as a stockist for the defendant on 15.09.2006. As a stockist, there were regular transactions between the plaintiff and the defendant. Pursuant to the appointment, the plaintiff had also deposited a sum of Rs.20 lakhs as security deposit. Claiming that there



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was outstanding from the defendant, it presented a suit for the aforesaid relief. Originally, the suit was presented before this Court in C.S.Diary No.36098 of 2018 and subsequently, it was transferred to the file of XXIII Additional City Civil Court, Allikulam, Chennai and numbered as O.S.No.5907 of 2021. After the creation of the Commercial Court at Egmore, the suit was taken on file as C.S.No.1003 of 2022. The defendant was served with the summons and soon thereafter, it filed an application in I.A.No.1 of 2023. This application invoked Order VII Rule 10 of the Code of Civil Procedure, 1908 r/w. Sections 20 and 21 of the said Act.

3. The plea of the petitioner is that the defendant was carrying on business in New Delhi and no part of the agreement was executed at Chennai. Since no cause of action which arose within Chennai, the defendant pleaded that the plaint has to be returned. This petition was stoutly resisted by the plaintiff. He pleaded that for mere the fact that the defendant is having its registered office in New Delhi does not



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mean that the suit has been filed there. It pointed out that as the plaintiff had been appointed as the stockist for the entire State of Tamil Nadu , it can present the suit in Chennai. Learned Commercial Judge considered the petition and counter and came to a conclusion that the suit before the Commercial Court is maintainable and consequently, dismissed the petition. Aggrieved by the same, the present revision.

4. I heard Ms.Deepika Murali, for the petitioner and Mr.A.R.Karthik Lakshmanan, for the respondent.

5. Ms.Deepika Murali pointed out that no where in the plaint has the plaintiff pleaded that the cause of action arose within Chennai. She points out that only the statement of accounts had been settled at Chennai to the said document, the defendant is not a party.

6. Per contra. Mr.Lakshmanan points out that the plaintiff is carrying on business in Chennai and was the stockist for the defendant



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in the State of Tamil Nadu and therefore, he is entitled to present the suit in Chennai.

7. I have carefully considered the submissions of both sides.

8. There is no dispute that the petitioner appointed the respondent as its stockist, in and by way of agreement, dated 15.09.2006. Even in the agreement, it is stated that the plaintiff is carrying on business under the name and style of "New Abirami Associates" at 808, Poonamalle High Road, Arumbakkam, Chennai 600 105. More importantly, as per annexure to the said agreement, the territory within which the plaintiff was entitled to sell the products of the defendant was defined as follows:

*"The territory shall mean the cities and
locations in the entire State of Tamil Nadu"*



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This shows that the defendant had authorized the plaintiff to sell its stocks in every City and Location in the State of Tamil Nadu. Chennai, being the capital and a city in the State of Tamil Nadu, the plaintiff was entitled to sell the products here. Therefore, a part of the cause of action has arisen within the jurisdiction of the Courts in Chennai. Under Section 20(c) of the CPC, a suit can be presented in any court where a part of cause of action arises.

9. Apart from that, under Section 21(1) of the CPC, no objection as to the place of suing can be raised before a revisional Court, unless and until, the same has been raised at the earliest possible time and when the place of suing itself results in failure of justice. While the defendant has specifically pleaded as regards the place of suing, unfortunately, Ms. Deepika, there is no plea that if the suit continues on the file of the court in Chennai, it will result in a failure of justice.



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10. Therefore, I am of the view that no exception can be taken to the view of the learned Principal District Judge, Commercial Court at Chennai in I.A.No.1 of 2023 in COS No.1003 of 2022 dated 02.01.2024.

11. At this stage, Ms.Deepika Murali, points out that while the defendant was pursuing this revision, the learned Trial Judge had forfeited the right of the defendant to file the written statement. I put it to Mr. Karthik Lakshmanan that on account of the fact that the defendant was pursuing this revision, she cannot be penalized from entering upon defence.

12. Mr.Lakshmanan fairly states that he would have no objection if the written statement is filed within a particular period of time. Being a commercial suit, which commenced in the year 2018, I feel if a week's time is granted to the defendant, it will be sufficient. Accordingly, the defendant is granted time till 13.12.2024 to file its written statement. In case, the written statement is not filed on or before



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13.12.2024, the order of the learned Judge forfeiting the right to file the written statement will revive. The learned Commercial Judge is requested to receive a soft copy of the written statement as the defendant is a resident of Delhi. Ms.Deepika Murali assures that the soft copy will be filed on or before 13.12.2024 and a duly signed hard copy will be filed on or before 19.12.2024.

13. The Civil Revision Petition is dismissed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

05.12.2024

Index : Yes / No
Internet:Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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To
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The District Judge,
Commercial Court,
Egmore, Chennai.



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V.LAKSHMINARAYANAN, J.

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