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C.R.P.No.2004 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.2004 of 2020

and

CMP Nos.12435 of 2020 and 26384 of 2023

M/s. Anupam Stationery Limited
represented by its Director Mr. Vinod Manilal Gala

... Petitioner

Vs.

1. Karan Singh Purohit
Sole Proprietor of M/s. Krishna Agencies

2. The Official Assignee,
Office of the Official Assignee,
High Court of Madras, Chennai-600 104.
[impleaded vide order dated 20.11.2023 made in
C.M.P. No.26384 of 2023 in C.R.P. No.2004 of 2020]

...Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, 1908, praying to set aside the fair and decreetal order dated 02.03.2020 made in I.A. No.13425 of 2016 in O.S. No.3474 of 2016 on the file of II Assistant Judge, City Civil Court at Chennai.



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For Petitioner : Mr. Rahul K. Jain for
M/s. Vikram B. Jain

For respondent : No appearance [for R1]
Mr. N.P. Jayakumar [for R2]

ORDER

The Civil Revision petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioner seeking to grant leave to defend the suit and permit the petitioner to file his written statement.

2. The respondent herein filed a Suit for recovery of amount from the petitioner herein in O.S. No.3474 of 2016. The case of the respondent is that the respondent paid a sum of Rs.4 lakhs to the petitioner for supply of certain goods on 02.05.2015 as promised, but the petitioner failed the supply the goods and hence the respondent was constrained to file a suit for recovery of said amount.

3. The learned counsel for the petitioner submitted that the petitioner filed an interlocutory application seeking leave to defend mainly on the ground that there was transaction between the petitioner and the respondent



for a long time and they had a running account and even after adjusting the amount paid by the respondent on 02.05.2015, a sum of Rs.5,23,046/- was due and payable from the respondent. It was also stated by the learned counsel for the petitioner that in respect of balance due from the respondent, the petitioner instituted a Suit for recovery of money in O.S. No.209 of 2016 on the file of District Court at Mumbai. Therefore, it is the case of the petitioner that there are several triable issues are involved and hence leave shall be granted to the petitioner to defend the suit. The Trial Court dismissed the leave petition on the ground that the transaction dated 02.05.2015 which is the basis for the present petition, was not reflected in the documents marked by petitioners as Ex.P.3 to Ex.P.6.

4. In the affidavit filed in support of the leave petition, the petitioner has extracted the ledger account maintained by him. In the Ledger Account, the payment of Rs.4,00,000/- by the respondent through HDFC bank was also mentioned. Whether the payment of Rs.4 lakhs made by the respondent on 02.05.2015 is a distinct transaction or part of the running account, is the matter to be decided, based on the evidence at the time of trial of the Suit.



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5. Hence this Court feels that there are triable issues in this matter and accordingly, the petitioner is entitled for the leave to defend the suit.

6. Accordingly, the Civil Revision petition is allowed *by granting leave to the petitioner to defend the Suit*. There shall be no order as to costs. The connected miscellaneous petitions are closed.

27.02.2024

Index : Yes / No
Internet : Yes / No
mjs

To

The II Assistant Judge, City Civil Court at Chennai.



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S.SOUNTHAR, J.

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