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C.R.P. (PD) No.3656 c



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.09.2024

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THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P. (PD) No.3656 of 2024
and C.M.P.No.19863 of 2024**

M/s CAN India Star Studios Pvt. Ltd.,
Represented by its Managing Director
Mr.T.Arunachalam alias Raaj Arun

... Petitioner

Vs.

Mr.G.Sowmyamoorthy
Represented by Power of Attorney
Mr.P.L.V.Subbarao

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order 24.06.2024 in I.A.No.2 of 2023 in C.O.S.No.144 of 2023 on the file of the Commercial Court, Chennai, and reject the suit.

For the Petitioner : Mr.R.Baskar

ORDER

This Civil Revision Petition arises against the order passed by the learned District Judge, Commercial Court, Chennai, in I.A.No.2 of 2023 in C.O.S.No.144 of 2023 dated 24.06.2024.



2. C.O.S.No.144 of 2023 is a suit for recovery of possession of the suit schedule mentioned property and for recovery of money of a sum of Rs.8,62,500/, being the arrears of rent from 15.01.2020 till November 2022 and for a sum of Rs.2 Lakhs as damages for use and occupation of the suit schedule mentioned property from December 2022 till March 2023 and other consequential reliefs.

3. There is no dispute in the relationship between the parties. The plaintiff is the landlord and the defendant is the tenant. On 14.04.2019, the defendant entered into a lease agreement with the plaintiff. He defaulted in payment of rents, constraining the plaintiff to issue several notices calling upon the defendant to pay the arrears. Since there was no positive response to the demands, the plaintiff terminated the lease by way of notice dated 24.11.2022 and instituted the suit in April 2023 for the aforesaid reliefs.

4. On being served with the summons, the defendant filed an application for rejection of plaint in I.A.No.2 of 2023. The basis for rejection of plaint is that the Commercial Court will not have jurisdiction as it is not a “Civil Court” and secondly, the suit is barred by limitation.

5. After receipt of a counter from the plaintiff/respondent the learned

District Judge, Commercial Court, Chennai went on to dismiss the application on



24.06.2022. Hence the revision.

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6. Heard Mr.R.Baskar for the Civil Revision Petitioner.

7. The learned counsel for the petitioner placing reliance upon the Judgment of the Delhi High Court in ***SOPL Private Limited Vs. Navin Patel*** (FAO 178/2023 & CM APPL.37228/2023 dated 09.08.2023) would argue that if the premises is a residential premises, then the issue of maintaining a suit under Section 2 (1) (c)(vii) of the Commercial Courts Act would not arise. He would submit that the property is assessed to tax as residential property and therefore, the suit should be presented only before the regularly constituted Civil Court and not before the Commercial Court.

8. The second point would be that a reading of the plaint shows that recovery of money as rents has been sought for from the period January 2020 to November 2022. The period of limitation being 3 years from the date of accrual of cause of action, the suit filed in April 2023 is barred by time.

9. I have carefully considered the submissions of the learned counsel for the petitioner.



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10. The learned counsel for the petitioner is kind enough to produce the lease agreement entered into between the plaintiff and the defendant. A perusal of the lease agreement would show that the lease has been entered into between the parties for “office purposes” for a period of 15 years. This is clear in the preamble of the lease agreement as well as from clause (6) of the said lease agreement.

11. At this stage, Mr.R.Baskar, would submit that it is only for office purpose, but it is not for trade or commerce as required under Section 2 (i) (c)(vii) of the Commercial Courts Act.

12. The legislation would only give an indication and it is the duty of the Court to interpret the same in a meaningful manner. The word “commercial” as per the Concise Oxford English Dictionary means “where the activity is concerned with or engaged in commerce that is carrying on to make a profit”. The purpose of renting the office by the plaintiff is not for charity, but for running a business under the name and style of M/s Can India Star Studio Private Limited. This makes it clear that a business venture had been carried on by the Civil Revision Petitioner in the said property. Clause (6) of the lease agreement states that the premises shall be used only for office purposes, which means the defendant had occupied the premises for generating income by way of business



and hence, it would constitute a commercial dispute, within the scope of Section 2 (i) (vii) of the Commercial Courts Act.

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13. The reasoning given by the learned Judge that the Commercial Court is also a Civil Court which follows a special procedure is unassailable and all I have to do is to confirm the same.

14. Insofar as the third plea of limitation is concerned, the Supreme Court had directed suspension of limitation for any proceeding from 15.03.2020 to 30.04.2022. This suspension was granted on account of the pandemic created by the Covid – 19 virus. Since the period of limitation was suspended by the Supreme Court, the plea of the defendant that the suit is barred by time cannot be entertained.

15. With respect to the Judgment in *SOPL Private Limited's case* (cited *supra*), the learned Judge has rendered a specific finding in that case that the premises involved in that litigation was residential in nature and hence set aside the direction given by the learned Additional District Judge-03, South, Saket Courts, New Delhi, directing the plaintiff to adopt the procedure under Section 2 (c) of the Commercial Courts Act. The very fact that the premises is residential shows that it will not be governed under Section 2 (i) (c)(vii) of the Act, said



C.R.P. (PD) No.3656 c

situation does not prevail in the present case. All the points failing, I am not inclined to entertain the revision.

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16. Accordingly, this Civil Revision Petition stands dismissed. No costs.

Consequently, the connected miscellaneous petition is closed.

06.09.2024

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Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

Neutral citation : Yes / No

To

The District Judge

Commercial Court, Egmore, Chennai.



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C.R.P. (PD) No.3656 c

V.LAKSHMINARAYANAN, J.,
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C.R.P. (PD) No.3656 of 2024

06.09.2024