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C.R.P.(PD)No.4700 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.4700 of 2024
and C.M.P.Nos.26294 & 26295 of 2024

1. M/s.Felix Infotech Private Limited,
Represented by its Managing Director,
Old No.67, New No.7, Kalaimagal Nagar,
3rd main road, Ekkattuthangal,
Chennai-600 032.

2. Mr.Koilpillai Samuel David Raj,
Managing Director of M/s.Felix
Infotech Private Limited,
Old No.67, New No.7, Kalaimagal Nagar,
3rd main road, Ekkattuthangal,
Chennai-600 032.

.. Petitioners

Vs

M/s.Synfocom Systems LLP.,
Represented by its Authorised Signatory,
Mr.Sri Kumaran, No.7/15,
Basha Street, Choolaimedu,
Chennai-600 094.

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the
Constitution of India, to direct the Commercial Court, Egmore, Chennai



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to permit the petitioner/defendants to cross-examine the respondent/plaintiff and mark necessary documents through the plaintiff in C.O.S.No.29 of 2023 and consequently direct the respondent/plaintiff to answer all the questions put during the cross-examination notwithstanding the non filing of written statement in time in C.O.S.No.29 of 2023

For Petitioners : Mr.K.V.Sajeevkumar

ORDER

This civil revision petition seeks for the following reliefs:

“To direct the Commercial Court, Egmore, Chennai to permit the petitioner/defendants to cross-examine the respondent/plaintiff and mark necessary documents through the plaintiff in C.O.S.No.29 of 2023 and consequently direct the respondent/plaintiff to answer all the questions put during the cross-examination notwithstanding the non filing of written statement in time in C.O.S.No.29 of 2023”.



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2. The Office has entertained a doubt as to how a revision is maintainable, when the civil revision petitioners/defendants have a remedy before the Commercial Court itself. Hence, C.R.P.(PD)SR. No. 117483 of 2024 is listed today under the caption “for maintainability”. After hearing the arguments of Mr.K.V.Sajeevkumar, I overruled the objection. The revision is taken on file. It is numbered as C.R.P.(PD)No.4700 of 2024.

3. I heard Mr.K.V.Sajeevkumar for the civil revision petitioners.

4. Mr.K.V.Sajeevkumar submits that though he has forfeited his right to file a written statement, he has a right to cross-examine the plaintiff on his case and on the basis of admitted documents. He states that the Commercial Court at Egmore is not permitting him to cross-examine the plaintiff. Hence, he has been constrained to move this revision. He points out that when the summons was originally served on the unamended plaint, he had not filed a written statement in time. However, the plaint suffered an amendment and immediately, he filed a written statement to the amended plaint, which after a period of 45 days had been returned to the defendants.



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WEB COPY 5. I have carefully considered the submissions of Mr.K.V.Sajeevkumar. I have gone through the records.

6. It is settled position of law that, for the mere fact that a defendant has been set *exparte*, does not lose his right to cross-examine the plaintiff. At the time of cross-examination under the Code of Civil Procedure and under the provisions of Order XI Rule 1(7)(c)(1) of the Commercial Courts Act, 2015, a defendant is entitled to put questions and produce documents at the time of cross-examination to the plaintiff and his witness. Further, if the Court does not permit the defendant to cross-examine, then it is the duty of the defendant to file an appropriate application/memo before the Commercial Court bringing to its notice about his entitlement to cross-examine the witness. If need be, the counsel cross-examining the witness can always inform the Court as to what basis that he is putting the said questions. In addition, if Mr.K.V.Sajeevkumar's clients feel that their written statement has been returned after being taken on file, that order should be independently challenged.



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7. The omnibus prayer that has been sought for in the revision, is a matter which is entirely within the discretion of the learned Commercial Court which is handling the trial. Hence, leaving it open to Mr.K.V.Sajeevkumar's clients to file an appropriate application or memo calling upon the attention of the Court to Order XI Rule 1(7)(c)(1) of the Commercial Courts Act as well as to challenge the order of the Commercial Court in returning the written statement, after having received the same, this civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

18.11.2024

Index:Yes/No

Speaking order/Non-speaking order

Neutral Citation:Yes/No

kj

To

The Commercial Court at Egmore, Chennai.



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V. LAKSHMINARAYANAN,J.

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