



C.R.P. (PD) No.4247 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition (PD) No.4247 of 2024
and C.M.P.No.23620 of 2024

Drizzle Shower of Collections
Rep.by its Proprietor
Mr.S.Ravikumar

.. Petitioner/Defendant

Versus

Mani Reddiyar

.. Respondent/Plaintiff

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order in I.A.No.5 of 2024 in O.S.No.5035 of 2023 dated 09.09.2024 passed by the learned XVII Additional Judge, City Civil Court, Chennai.

For the Petitioner : Mr.Ilangovan

For the Respondent : Mr.S.Sabarish



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ORDER

This Civil Revision Petition arises against the order of the XVII Additional Judge, City Civil Court, Chennai, in I.A.No.5 of 2024 in O.S.No.5035 of 2023.

2. O.S.No.5035 of 2023 is a suit for recovery of arrears of monthly rents due for the period from March 2020 to July 2023, which the plaintiff quantified as Rs.27,88,000/-. The defendant entered appearance and filed written statement. Thereafter, the parties went for trial. The case was listed for examination of P.W.1 on 25.03.2024. Thereafter, it was adjourned to 02.04.2024 for recording of evidence of P.W.1. This was after the defendant had filed an application to reopen the evidence of P.W.1. Thereafter, on 10.04.2024, the plaintiff was cross examined in part and it was posted to 22.04.2022 for continuation. On 22.04.2024, the parties tried to negotiate for settlement and therefore, it was adjourned to 25.04.2024. The matter suffered adjournments and was finally listed on 06.03.2024. On 06.07.2024, since no settlement was arrived at, the matter was listed to 12.07.2024 for continuation



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of cross examination of P.W.1. On 12.07.2024, as the learned counsel for the defendant was otherwise engaged, hence, the matter was adjourned to 19.07.2024. On 19.07.2024, a plea was made to the Court that as the learned counsel was not readily available, the matter may be adjourned for one day. The learned Judge would have none of it and closed the evidence. Hence, the defendant filed an application to recall the evidence of P.W.1. The said application was stiffly opposed by the plaintiff and it was dismissed. Hence, the present revision.

3. I heard Mr.Ilangovan for the Civil Revision Petitioner. I requested him to serve the entire typed set of papers on Mr.Kingston Jerold, who represents the plaintiff before the Court below. Mr.Sabarish, represents Mr.Kingston Jerold.

4. Mr.Ilangovan submits that on account of the fact that he was held up in the High Court, he was not in a position to rush immediately to the City Civil Court, to continue the cross examination on 19.07.2024. All that he had sought for from the trial Court was a day's adjournment. He states that he filed



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his written statement without any delay and he has certain crucial questions to be put to the plaintiff. His plea includes the issue that the defendant had spent a sum of Rs.40 lakhs in developing the property and to make it fit enough for usage only commercial purposes.

5. Mr.Sabarish, stiffly opposes this plea. He states that sufficient opportunities had been granted to the defendant to cross examine P.W.1. He urges that the plaintiff has defaulted in rents from March 2020 onwards, constraining the plaintiff to present the suit. He urges that the default has continued for a further period and as of October 2024, the entire amount due comes around Rs.37,40,000/-. He states that this Court should not extend any indulgence to the defendant and seeks for confirmation of the order.

6. I have carefully considered the submissions of either side.

7. The relationship between the parties is not in dispute. With respect to the order impugned in this revision, it is not in dispute that the learned counsel for the defendant had commenced cross examination on 10.04.2024



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and had continued it on 22.04.2024. The matter was adjourned only on account of the proposal for settlement. Thereafter, it was called on 12.07.2024. Since the counsel was not in a position to represent on account of his other engagements, he sought for time. The Court also granted time and has posted the matter to 19.07.2024. On 19.07.2024, since the defendant again sought time, the Court has closed the evidence.

8. Considering the plea that has been raised by Mr.Ilangovan, that he has spent considerable amount for the development of the property, on which issue he wants to cross examine the plaintiff, I feel that the Court could have granted one further chance to the defendant to substantiate the plea raised by him. The purpose of the Code of Civil Procedure is not to punish a party for his default. It only seeks for uniform and steady progress of the litigation. In case, the learned Judge had allowed the application, I am sure, the suit itself would be disposed of by now.

9. At the same time, I have to take into consideration the difficulties that has been caused to the plaintiff, who is a senior citizen aged about 70



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years. Balancing the interest of the plaintiff and the defendant, I am inclined to allow this revision, on condition that the defendant pays to the plaintiff a sum of Rs.68,000/- as costs in both the applications. The said amount of Rs.68,000/- is being paid as costs and it will not be treated as a partial discharge of the amount that the defendant has to pay to the plaintiff. The defendant wants the luxury of litigation. He is given the luxury on payment of the aforesaid costs.

10. In the light of the above direction, this Civil Revision Petition stands allowed. The order passed by the learned XVII Additional Judge, City Civil Court, in I.A.No.5 of 2024 in O.S.No.5035 of 2023 dated 09.09.2024 is set aside, on condition that the defendant will pay a sum of Rs.68,000/- to the plaintiff, on or before 05.11.2024.

11. If the costs are not paid, this Civil Revision Petition stands dismissed, without further reference to this Court. If the costs are paid, the defendant will be entitled to cross examine the P.W.1 on 06.11.2024 and 07.11.2024. The learned XVII Additional Judge, is requested to dispose of the



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suit in O.S.No.5035 of 2023 on or before 29.11.2024, after hearing the arguments of both sides. Consequently, the connected miscellaneous petition is closed.

24.10.2024

Index : Yes / No
Internet: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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Note: The learned XVII Additional Judge, City Civil Court, Chennai, is requested to act upon the web copy of this order, without insisting for a certified copy of this order.

Note to Registry: Upload the order copy on or before 25.10.2024.

To
The XVII Additional Judge
City Civil Court, Chennai.



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V.LAKSHMINARAYANAN, J.,

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