



Appeal (CAD) No.47 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2024

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Appeal(CAD) No.47 of 2024

&

C.M.P.No.26386 of 2024

V.Kumaran

.. Appellant

Vs.

S.A.Christy Bharath

.. Respondent

Prayer : Appeal under Section 13(1A) of the Commercial Courts Act, 2015
r/w Section 96 of CPC against the order dated 14.08.2024 passed in
C.O.S.No.17 of 2024 on the file of Principal Commercial Court at Chennai.

For Appellant : Mr.S.Arivazhagan

For Respondent : Mrs.Chitra Sampath
Senior Counsel
For Mr.G.Viswanathan



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JUDGMENT

(Judgment of the Court was delivered
by the Hon'ble Chief Justice)

This appeal impugns an order and judgment dated 14.08.2024 passed by the Principal Commercial Court at Chennai, by which, the suit was decreed by a summary judgment with costs in favour of respondent.

2. The Trial Court directed appellant (a) to vacate Schedule B premises and hand over vacant possession to plaintiff, i.e. respondent herein, (b) to pay a sum of Rs.6,36,000/- towards rental arrears for the period from March 2020 to August 2023, with further interest at the rate of 9% per annum from the date of plaint till the date of realisation, (c) to pay a sum of Rs.20,000/- per month towards damages for use and occupation for the period from May 2023 until the date of delivery of vacant possession and the time for delivery and payment was fixed at three months. The three months period expired on 14.11.2024. The Schedule B premises is Shop No.23/4, Gee Gee Minar, No.23, College



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Road, Nungambakkam, Chennai 600 006 (the said shop).
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3. On 25.11.2024, when the appeal came up for admission, we were informed by counsel that the said shop was being used as barber shop by appellant and chairs and equipments required to conduct a barber shop were still with him in the shop. This Court directed appellant to pay the entire arrears as decreed and if not paid, appellant was warned he may be physically evicted from the premises. The matter was stood over to today.

4. Today, appellant, who is present in Court and identified by counsel, agreed to hand over physical possession of the shop. Respondent, who is present in Court, also agreed to take possession of the shop without prejudice to his rights and contentions to recover the arrears of rent and the decretal amount. Appellant's counsel handed over the keys to respondent's counsel and both appellant and respondent thereafter proceeded to the shop. The matter was stood over to post lunch session.

5. Post lunch, counsel appearing for respondent tendered four photographs taken at the shop while taking possession. The photographs reveal a shocking situation inasmuch as there is no barber shop, but the



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business that was being conducted at the shop was mobile telephone sales.

Outside the shop, there is also a board put up that iPhones are available on EMI basis. To a query posed by the Court, counsel for respondent informed the Court that what was in the glass shelves were only empty packets of phones and mobile phone accessories and appellant has removed all the movables from the shop. The shop has also not been cleaned.

6. The four photographs are taken on record and marked as 'X', 'X1', 'X2' and 'X3' for identification. Copy of the aadhar card tendered by appellant bearing No.734541206499 is also taken on record and marked as 'X4' for identification. Documents marked as 'X' to 'X4', for ease of reference, are also scanned and reproduced below:



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7. Counsel for appellant informed the Court that he truly believed that his client was conducting hair salon (barber shop). Counsel stated that at no point of time, did appellant inform him that he stopped conducting barber shop and was running a mobile telephone sales business. Counsel is deeply embarrassed and requested the Court to discharge him. Counsel tendered apology to the Court. Mr.S.Arivazhagan is discharged.

8. Appellant is present in person. He admits that the photographs are correct.

9. Appellant states repeatedly to the Court that he has no source of income and he is a slum dweller and there was no way he would be able to pay the decretal amount. It is quite obvious that appellant has been lying to the Court because photographs, which are admitted by appellant, indicate otherwise. Appellant says that he only kept those empty packets for show case which again shows that the intention of appellant is to



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mislead the public by showcasing that he is a mobile telephone dealer when the factual position is otherwise.

10. Even on merits, for reasons set out in paragraph 8 of the impugned judgment, no case is made out for interference. The appeal is dismissed with cost of Rs.1.00 lakh (Rupees one lakh only) which amount shall also be recovered from appellant in the execution proceedings that respondent may initiate.

11. Registrar General shall forward the papers to the concerned jurisdictional Court to initiate perjury proceedings against appellant, whose details are available in the aadhar card.

12. Appellant disclosed his bank account details:

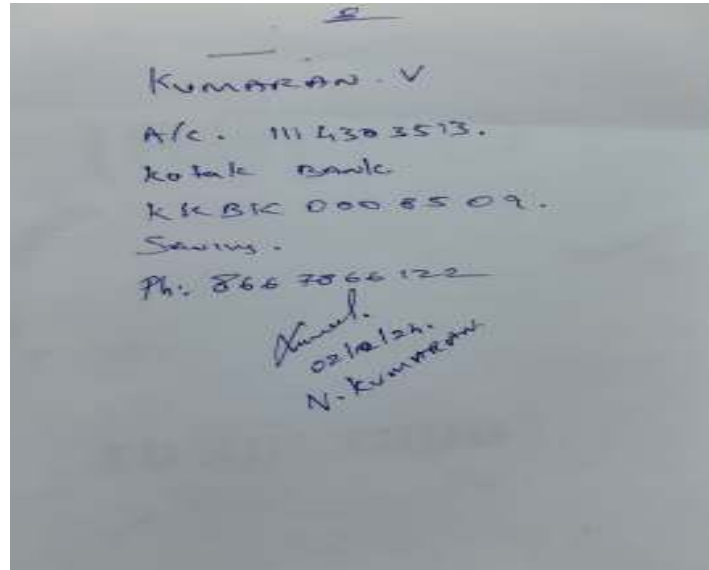
Kumaran V
A/c. No.1114303513
Kotak Bank
KKBK0008509
Ph: 8667866122



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13. The account details which have been provided by appellant in a chit of paper and counter signed by him is also scanned and reproduced below:



14. The bank is directed to provide the statement of account to respondent's advocate, whose name, address and mobile number are as under:

Mr.G.Swaminathan
No.21/12, Katchaleeswarar Agraharam Street
Parrys, Chennai 01
Cell No.9551028122

This shall be made available within two hours of receiving a copy of this



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order from respondent/respondent's advocate.

15. Without the leave of this Court, appellant shall not be permitted to operate the bank account to the extent of paying out, but any credits into the account shall be permitted. We are passing this drastic order because the appellant has been unperturbed by the happenings in the court and in view of the fact that appellant was not even bothered about lying to the court.

16. As the appeal is dismissed with costs, consequently, interim application is also dismissed.

(K.R.SHRIRAM, CJ)

(SENTHILKUMAR RAMAMOORTHY, J.)

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Index : Yes/No
Neutral Citation : Yes/No
kpl

To

The Principal Commercial Court
Egmore
Chennai



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THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY,J.

(kpl)

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