



CRP No.285 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

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B.Sujatha

... Petitioner

Vs.

M/s.Indian Oil Corporation Limited,
Represented by its Authorised
power agent Mr.K.Ramesh &
Senior Manager (Retail Sales)
having its State Head Office at
No.139, Nungambakkam High Road,
Chennai- 600 034.

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the impugned adjudication dated 21.09.2023 and permit the revision petitioner/defendant to file her written statement in C.O.S.No.1909 of 2022 on the file of the Hon'ble Commercial Court, Chennai within a time frame.



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For Petitioner : Mr.Ashok Kumar
For Respondent : Mr.Mohamed Fayaz Ali
Standing Counsel

ORDER

The civil revision petition is filed to set aside the impugned adjudication dated 21.09.2023 and permit the revision petitioner to file her written statement in C.O.S.No.1909 of 2022 on the file of the Commercial Court, Chennai within a time frame.

2. The petitioner is the defendant and the respondent is the plaintiff in C.S.No.478 of 2017. The respondent/plaintiff has originally filed a civil suit before this Court in CS.No.478 of 2017. Due to the enhancement of pecuniary jurisdiction, the said suit was transferred to the file of XX Additional City Civil Court, on 17.04.2021, and re-numbered as O.S.No.3423 of 2021. Subsequently, considering the nature of the dispute, the Registry of City Civil Court, Chennai transferred the said suit to the Commercial Court on 08.12.2022 and re-numbered the suit as C.O.S.No.1909 of 2022 and taken on the file of the Commercial Court,

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Egmore, Chennai on 14.12.2022. The Trial Court, without granting time to the petitioner for filing written statement in a transferred case, by its order dated 21.09.2023, recorded as follows:

"Written Statement not filed time line already expired. The defendant forfeited their right to file the written statement. For further proceedings. 01.12.2023. IA 1/21-For Enquiry 01.12.2023."

3. Challenging the said order, the petitioner has filed the present civil revision petition.

4. Learned counsel for the petitioner submits that the Trial Court has recorded that the petitioner has forfeited her right to file written statement. Hence, the petitioner has filed the present civil revision petition, as the order dated 21.09.2023 is not in compliance with the requirement of Section 15 (4) of the Commercial Court Act, 2015 (hereinafter referred to 'the Act of 2015'). Therefore, the order of the Commercial Court is liable to be set aside.



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5. Learned Standing Counsel for the respondent/plaintiff submits that the respondent/plaintiff has no objection for granting time to the petitioner/defendant, for filing written statement, by the Commercial Court.

6. Heard the learned counsel for the parties and perused the materials available on record.

7. The facts reveal that the petitioner is the defendant and the respondent is the plaintiff in C.S.No.478 of 2017. The respondent/plaintiff has originally filed the civil suit before this Court in CS.No.478 of 2017. Due to the enhancement of pecuniary jurisdiction, the said suit was transferred to the file of XX Additional City Civil Court, on 17.04.2021 and re-numbered as O.S.No.3423 of 2021. Subsequently, considering the nature of the dispute, the Registry of City Civil Court, Chennai transferred the said suit to Commercial Court on 08.12.2022 and re-numbered the suit as C.O.S.No.1909 of 2022 and taken on the file of the Commercial Court, Egmore, Chennai on 14.12.2022.



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8. According to the petitioner, the Commercial Court, without granting time for filing written statement in the transferred case, by its order dated 21.09.2023, has recorded that the petitioner/defendant has forfeited her right to file written statement. Therefore, the said order is not in compliance with the requirement of Section 15 (4) of the Act of 2015.

9. It is necessary to extract Section 15(4) of the Act of 2015. The section reads as under:

(4) The Commercial Division or Commercial Court, as the case may be, may hold case management hearings in respect of such transferred suit or application in order to prescribe new timelines or issue such further directions as may be necessary for a speedy and efficacious disposal of such suit or application in accordance with Order XV-A of the Code of Civil Procedure, 1908 (5 of 1908):

PROVIDED that the proviso to sub-rule(1) of Rule 1 of Order V of the Code of Civil Procedure, 1908 (5 of 1908) shall not apply to such transferred suit or application and the court may, in its discretion, prescribe a new time period within which the written statement must be filed.

10. Admittedly, the original suit has been transferred from XX



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Additional City Civil Court, Chennai to the Commercial Court, Chennai and re-numbered as C.O.S.No.1909 of 2022 on the file of the Commercial Court, Egmore, Chennai on 14.12.2022. On a perusal of the extract of the court proceedings pertaining to this case, it is noticed that in the order dated 21.09.2023, it is recorded that written statement was not filed in time and that the time has already expired. Thus, the petitioner/defendant has forfeited their right to file the written statement. Further, on a perusal of the court proceedings, it is noticed that the Commercial Court after receiving the case from the transferred court, has not issued any direction prescribing new time period within which written statement must be filed. Without complying with the requirement of Section 15(4) of the Act of 2015, the petitioner/defendant's right of filing the written statement has been forfeited, which is unsustainable. Therefore, the order of the Commercial Court is liable to be set aside. Accordingly, the order of the Commercial Court dated 21.09.2023 is hereby set aside and the Commercial Court is hereby directed to receive the written statement from the petitioner/defendant. The petitioner/defendant is granted time till 25.02.2024 for filing written



11. With the above directions, the civil revision petition stands allowed. There will be no order as to costs. Consequently, CMP No.1325 of 2024 is closed.

12. During the course of arguments, the learned counsel for both the parties and other advocate expressed their grievances with regard to cases which are transferred from City Civil Courts to the Commercial Courts, in many instances, learned judge without giving sufficient time or opportunity to the defendants to file their written statement, straightway observes that the defendants have not filed written statement within time and therefore, has forfeited his/her/their rights. Learned counsels jointly requested this Court to give a direction to the Commercial Courts, to provide sufficient time or opportunity in cases, which are transferred from other Courts.

13. In view of the above, the Registry is directed to place the matter before the Hon'ble the Chief Justice for issuing appropriate circular orders



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to the Commercial Courts to grant time or opportunity to the defendants to file written statements in cases which are transferred from the other Courts.

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Index: Yes/No
Internet: Yes/No
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