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C.R.P. (PD) .No.4860 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4860 of 2024
and C.M.P.No.27213 of 2024

M/s.Hot Chips Enterprises,
Represented by its Proprietor,
Vasudevan Prakadesh

.. Petitioner

Vs.

M/s.Dachiku Trade Link,
Proprietor Mapi Devi.

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the decretal order dated 04.11.2024 passed in I.A.No.3 of 2024 in COS.No.157 of 2024 on the file of the Principal Commercial Court at Egmore, Chennai.

For Petitioner : Mr.N.Ragulagavel Rajesh

ORDER

This civil revision petition arises against the order passed by the learned Principal Commercial Court at Egmore, Chennai, in I.A.No.3 of 2024 in C.O.S.No.157 of 2024 dated 04.11.2024.



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2.The civil revision petitioner is the defendant in the suit.

3.O.S.No.157 of 2024 has been presented by the respondent / plaintiff seeking recovery of a sum of Rs.3,21,542/-. These amounts, according to the plaintiff, are towards the various supplies that have been made by the plaintiff to the defendant from 2019 onwards. The plaintiff, having given adjustments for the part payments that have been made by the defendant, on 28.11.2020, 21.12.2020, 29.12.2020, 14.10.2021 and 24.07.2022, presented the suit for the balance. Despite the adjustments, it still left out balance of Rs.3,21,542/-. Hence the suit.

4.Being an Under Chapter suit, the defendant was issued summons for judgment. The defendant immediately filed an application, in I.A.No.3 of 2024, seeking leave to defend. According to the defendant, the supplies that were made by the plaintiff were only for a limited period for which it had paid all the amounts and that there are no pending amounts. At the same time, it took a plea that the invoices that have been produced along with the suit are all bogus invoices. It also took a plea that it never received a Lawyer notice



dated 23.11.2020 and was surprised to receive the summons in the suit.

Hence, it sought for leave to defend.

5.This petition was stoutly opposed by the plaintiff. It pleaded that after the Lawyer's notice, the defendant had made substantial payments as set forth above. Therefore, it sought for dismissal of the petition as the defence itself is in moonshine.

6.The learned Trial Judge after considering the affidavit and petition, came to a conclusion that the defendant will be granted leave to defend on the condition it deposits 50% of the suit claim on or before 18.11.2024. Aggrieved by the same, the present civil revision petition.

7.I heard Mr.N.Ragulagavel Rajesh for the civil revision petitioner.

8.Mr.N.Ragulagavel Rajesh pleads that there are genuine disputes as regards the invoices that have been filed before the Court. He pleads that the defence of the defendants show triable issues and therefore, the Court ought to have granted him unconditional leave to defend. He states that the finding



of the learned Trial Judge that the defence is illusory and moonshine is erroneous and requires interference at the hands of this Court.

9.I have carefully considered the submissions made by Mr.N.Ragulagavel Rajesh.

10.This is a suit for recovery of money as an Under Chapter suit. The plaintiff has produced the invoices and ledger statements from July, 2019 to October, 2021. The matter was also referred to Mediation in terms of Section 12A and “Non Starter Report” has also been issued. As against the ledger statement and invoice copies, no evidence worth his name has been filed by the defendant in order to show that it had satisfied all the invoices of the plaintiff.

11.In fact, though Mr.N.Ragulagavel Rajesh had taken a plea that the Lawyer's Notice was not received by the defendant, I find Document No.5 relates to an acknowledgement card of the Lawyer's Notice issued on 21.02.2023. The learned Judge has applied her mind and following a judgment of the Supreme Court in *M/s.Mechelec Engineers &*



Manufacturers Vs. M/s.Basic Equipment Corporation, AIR 1977 SC 577,

has held that while protecting the interest of the plaintiff, the defendant would be entitled to leave to defend, if 50% of the suit claim is deposited in Court.

12.In my view, the learned Judge had applied correct position of law to the facts before her. Hence, I do not think this order needs to be revised.

13.At this stage, Mr.N.Ragulagavel Rajesh pleads that the time granted by the Trial Court has expired and the learned Judge has proceeded with the suit. He states that as the defendant was pursuing this civil revision petition, it had not complied with the order passed by the Trial Court.

14.Considering this plea, the time granted by the learned Trial Judge alone stands extended by a further period of two (2) weeks from today. In other words, the civil revision petitioner shall deposit the amounts, as fixed by the learned Trial Judge, on or before 13.12.2024. I am informed by Mr.N.Ragulagavel Rajesh that the case is posted for judgment today. The learned Principal Commercial Judge, Egmore, Chennai, is requested to post the case to 16.12.2024. In case, the defendant does not deposit the amount in



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terms of the order dated 04.11.2024, she can proceed and pronounce the judgment on 16.12.2024.

15.The order is modified regarding time to deposit alone. In all other aspects, this Civil Revision Petition is dismissed. The order passed by the Principal Commercial Court at Egmore, Chennai, in I.A.No.3 of 2024 in C.O.S.No.157 of 2024 dated 04.11.2024 stands confirmed. Consequently, the connected Miscellaneous Petition is closed. No costs.

29.11.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

The Principal Commercial Court,
Egmore,
Chennai.

V.LAKSHMINARAYANAN, J.



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