

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.304 of 2024
and
C.M.P.No.1416 of 2024

M/s.Brindavanam Krishna Trust,
Represented by its Managing Trustee
Mrs.Rani Krishnan
No.48, Rajiv Gandhi Road, Karapakkam,
Chennai – 600 097.

Also at

“Annai Illam”

Brindavanam Krishna Trust,
No.21/11, Seethammal Road,
Alwarpet, Chennai – 600 018.

... Petitioner

Vs.

1.Sindhu Ganesh
2.Santhya Ganesh

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decree dated 11.10.2023 passed in I.A.No.3 of 2023 in C.O.S.No.1599 of 2022 on the file of the Commercial Court District Judge at Chennai.

For Petitioner : Mr.S.Rubeen Prabhu

For Respondents : Mr.Vijayamehanath

ORDER

This civil revision petition is filed to set aside the order and decree dated 11.10.2023 passed in I.A.No.3 of 2023 in C.O.S.No.1599 of 2022 on the file of the Commercial Court District Judge at Chennai.

2.The contention of the learned counsel for the petitioner is that the petitioner/defendant in COS.No.1599 of 2022 filed I.A.No.3 of 2022 under Order VII Rule 10 of CPC to return the plaint for the reason that the issue in the suit is not commercial and it should be filed by way of an ordinary suit before the regular Court. He would submit that it is admitted by the respondent that the petitioner was granted the premises only to run a Senior Citizens Home and having rented out the property for social activities now cannot claim that it is a commercial transaction. It is not in dispute that the petitioner and the respondent are in the relationship of tenant and landlord

and the tenancy is for the purpose of running an old age home by the petitioner. The petitioner is running the old age home for the elderly senior citizens which is a social activity. In such circumstances, the respondent claiming the petitioner's activities as a commercial act, which would fall under Section 2(1)(c)(vii) of Commercial Courts Act, 2015 is not proper. For this reason, the petitioner filed a petition to return the plaint which was dismissed. Against which, the present petition is filed.

3. In support of his contention, the learned counsel for the petitioner relied upon the decision of the Apex Court in the case of ***Ambalal Sarabhai Enterprises Ltd. vs. K.S. Infraspace LLP and another*** reported in **(2020) 15 SCC 585**, wherein the Apex Court observed that Commercial Courts Act, 2015 is enacted so as to provide speedy disposal of high value commercial disputes so as to create the positive image to the investors world about the independent and responsive Indian legal system. Further, it had also observed that it is for the Commercial Court to carefully examine and entertain only disputes which actually answers the definition “commercial disputes” and not otherwise.

4.The learned counsel for the respondents submitted that the petitioner Trust entered into a lease agreement with the respondents' grandfather one Mr.P.S.Sesahdri vide agreement dated 15.06.2018 and the monthly rent was fixed at Rs.1,00,000/- for running an old age home and this 11 months agreement got expired on 31.05.2019. In the meanwhile, the respondents' grandfather Mr.P.S.Seshadri died on 30.01.2022. He would submit that the petitioner is running the old age home after collecting commercial fee for maintenance and up-keeping of the old aged persons, which is a commercial activity that fall under Section 2(c)(vii) of the Commercial Courts Act and further the property was classified as commercial property, tax and charges are paid on commercial tariff. Now the petitioner is due to the tune of Rs.30,00,000/- as on date to the respondents . The entire property is used for commercial purpose and the petitioner is making earnings using the property which is a commercial activity. In view of the same, the suit was filed before the Commercial Court. After scrutinizing the plaint and the documents annexed therein, the Commercial Court satisfied that that case falls under the commercial

dispute, thereafter taken the case on file and the petitioner/defendant cannot question the wisdom of the Trial Court in taking the plaint on file which satisfied itself and thereafter, took the plaint on file as commercial suit. He further submitted that the petitioner ought to have filed the written statement within 120 days and in this case they failed to file the written statement and their right was fortified by order dated 26.04.2023, thereafter the present petition under Order VII Rule 10 Criminal Procedure Code filed on 30.06.2023 thereby successfully protracting the trial proceedings and defeating the purpose of filing of commercial suit. He further submitted that citing the pendency of the above civil revision petition, the proceedings before the Commercial Court is getting stalled.

5.Considering the submissions made and on perusal of the materials, it is seen that the suit was taken as commercial suit in COS.No.1599 of 2022 by the Commercial Court. Before taking the suit on file, the Court scrutinizes the plaint and the documents annexed therein, after getting satisfied only, the suits are taken on file. In this case, scrutiny of the plaint done and thereafter, it was taken on file as commercial suit. It is not in

dispute that the petitioner is a tenant and running an old age home for the past six years on collecting fee from the inmates for staying in the suit property which would come under commercial activity. In view of the same, this Court finds no reason to interfere with the order passed by the learned District Judge, Commercial Court at Chennai in I.A.No.3 of 2023 in C.O.S.No.1599 of 2022 dated 11.10.2023. Further, considering the fact that the case is kept pending from the year 2022 without any progress, the Commercial Court, Chennai to dispose of C.O.S.No.1599 of 2022 within a period of three months from the date of receipt of a copy of this order.

6.In the result, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed

23.07.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse

M.NIRMAL KUMAR, J.

cse

To

The District Judge,
Commercial Court,
Chennai.

C.R.P.No.304 of 2024

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