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C.R.P.No.1204 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2025

**CORAM
THE HONOURABLE MR. JUSTICE P.B.BALAJI**

C.R.P.No.1204 of 2025

1. K.S.Balasubramaniam
2. G.Vinod Kumar

... Petitioners

Vs.

1. N.K.Sathi
2. P.V.Subash
3. P.V.Suchitra
4. P.V.Sumith

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, pleaded to allow this revision petition and set aside the order dated 11.12.2024 made in I.A.No. 3 of 2024 in C.O.S.No. 1468 of 2022 on the file of the Additional Commercial Court at Egmore, Chennai.

For Petitioner : Mr.M.Mubarak Ahmad
for M/s.Ahmad Associates

For Respondents : Mr.Ashok Menon



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ORDER

The petitioners/defendants challenge the order of the Additional Commercial Court at Egmore, Chennai, dismissing I.A.No. 3 of 2024 in C.O.S. No. 1468 of 2022, wherein the revision petitioners had sought for the issue of whether the respondents/plaintiffs were legally entitled to rent out the licence issued by the Corporation of Chennai, in view of Section 114(1)(b) of the Tamil Nadu Urban Local Bodies Act, 1998, to be tried as a preliminary issue under Order XIV Rule 2 of CPC.

2. The said application was resisted by the respondents/plaintiffs. The Trial Court held that the suit is one for recovery of money, namely licence fees and that considering the fact that the petitioners/defendants are in possession of the hotel premises by assignment from the first plaintiff, the issue of whether the first plaintiff had a right to assign a licence does not even arise in the suit. It further held that if there is any violation of the statutory provisions of the Tamil Nadu Urban Local Bodies Act, 1998, it would be open to the statutory authorities to take appropriate action against the plaintiffs and not for the Commercial Court, which is concerned only with whether the plaintiff is entitled to recover arrears or not



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3. The learned counsel appearing for the petitioners drew my attention to the provisions of the Tamil Nadu Urban Local Bodies Act, 1998, and submitted that the suit claim itself is not maintainable in view of the statutory provision viz., Section 114(1)(b). He submitted that the issue would necessarily have to be addressed, as if the contract is found to be illegal, then the respondents/plaintiffs would be estopped from pursuing the suit claim.

4. However, the determination of this issue requires oral and documentary evidence to be let in by both parties, especially since even under Section 114(1)(b) of the Act, contemplates penal action only after issuance of a show cause notice. These are all factual matters and cannot be decided as a preliminary issue under Order XIV Rule 2 of CPC.

5. There is no error committed by the Trial Court in dismissing I.A. No. 3 of 2024 in C.O.S.No. 1468 of 2022. Hence, giving liberty to the petitioners/defendants to raise all their contentions before the Trial Court, this Civil Revision Petition is dismissed.



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6. Considering the above, the Additional Commercial Court at Egmore, Chennai, shall dispose of the suit in C.O.S.No. 1468 of 2022 on or before 10.10.2025.

20.06.2025

nsI

To

The Additional Commercial Court at Egmore,
Chennai.



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P.B.BALAJI, J.

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