

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE SIXTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HONOURABLE SRI JUSTICE J SREENIVAS RAO**

CIVIL REVISION PETITION NO: 13 OF 2025

Petition filed under Article 227 of the Constitution of India aggrieved by the Order dated 14/11/2024 in IA No. 240 of 2023 in COS No. 17 of 2023 on the file of the Additional Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad.

Between:

M/s. V3 Chains, a registered partnership firm, Represented by its managing partner Mr. Rahul Bokadia, S/o Raj Kumar Bokadia, aged about 28 years. R/o. 1-2-593/16, Flat No.502, The Legend Koudanya, Street No.4, Lane No.3. Gaganmahal Colony, Domalguda, Himayatnagar. Hyderabad, Telangana 500029 Registered office at 3-6-102A, F.No.102, Janapriya Grandeur, Road No.18, Himayatnagar, Hyderabad -500018

...PETITIONER/PETITIONER/DEFENDANT

AND

Mrs. Kodali Shoba Rani, W/o. Mr. Kodali Nageswara Rao, Aged about 73 years, Occ. Business, R/o. 2N, Royal Heritage, Srinagar Colony Main Road. Hyderabad - 500 073

...RESPONDENT/RESPONDENT/PLAINTIFF

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay all further proceedings in COS No. 17 of 2023 on the file of the Additional Special Court in the cadre of District Judge for Trial and Disposal of Commercial Disputes, at Hyderabad, pending disposal of the Civil Revision Petition.

Counsel for the Petitioner: Sri Dida Vijaya Kumar

Counsel for the Respondents: Sri K. R. Raman

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

Civil Revision Petition No. 13 of 2025

ORDER: *(Per the Hon'ble Sri Justice J. Sreenivas Rao)*

This civil revision petition is filed invoking the provisions of Article 227 of the Constitution of India aggrieved by the order dated 14.11.2014 passed by the Additional Special Court in the cadre of District Judge for trial and disposal of Commercial Disputes at Hyderabad (hereinafter referred as 'the Commercial Court') in I.A.No.240 of 2023 in C.O.S.No.17 of 2023, whereunder the application filed by the petitioner seeking rejection of the plaint was dismissed.

2. Heard Sri Dida Vijaya Kumar, learned counsel for the petitioner and Sri K.R.Raman, learned counsel for the respondent.

3. **Brief facts of case:**

3.1 Facts giving rise to filing of this revision petition briefly stated are that the respondent/plaintiff is absolute owner of building bearing Municipal No.8-2-293/82/A/1072, consisting of ground plus two upper floors, having a carpet area of 5,200 square feet constructed on plot No.1072, together with appurtenant land

altogether admeasuring 1498 square yards situated at Road No.44, Jubilee Hills, Hyderabad 500033 (hereinafter referred to as 'the suit schedule property') and the respondent filed C.O.S.No.17 of 2023 for eviction of the petitioner from the suit schedule property and claiming arrears of mesne profits of Rs.7,50,000/- i.e. from 15.09.2022 till 01.05.2023 and mesne profits of Rs.4,00,000/- per month from the date of suit till the date of petitioner vacates the suit schedule property and Rs.1,00,00,000/- towards damages, on the ground that the respondent is absolute owner of the suit schedule property and the petitioner has taken the suit schedule property on lease for running a restaurant/café/bistro. Accordingly, the parties entered into a lease deed dated 11.08.2019. After expiry of the lease period on 15.09.2022, in spite of several demands made by the respondent, petitioner is not vacating the suit schedule property. At that stage, the respondent after issuing the legal notice on 09.12.2022, has filed suit for eviction.

3.2 In the said suit, the petitioner filed written statement denying the averments made in the plaint and also filed I.A.No.240 of 2023 invoking the provisions of Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, 1908 seeking rejection of the plaint on the ground that the suit filed by the respondent is

barred by law. The Commercial Court dismissed the said I.A. through its impugned order. Thus the petitioner filed the present revision petition.

4. **Submissions of learned counsel for the petitioner:**

4.1 Learned counsel for the petitioner vehemently contended that the respondent without complying the mandatory provisions of Section 12-A of the Commercial Courts Act, 2015 (hereinafter referred to as 'the Act') has filed the suit and the same is barred by law. The Commercial Court without properly considering the provisions of Section 12 of the Act dismissed the I.A.No.240 of 2023.

4.2 He further submitted that in the absence of compliance of mandatory provisions in terms of Section 12-A of the Act, the Commercial Court is not having jurisdiction to entertain the suit in terms of Section 2 (c) (vii) of the Act. He further submitted that the respondent filed the suit for eviction basing upon the unregistered lease deed dated 11.08.2019 and the same is not maintainable under law and basing on the unregistered document, the respondent is not entitled to seek eviction of the petitioner from the suit schedule property.

4.3 He also submitted that the respondent valued the relief of eviction for Rs.48 lakhs. Whereas the relief for arrears of amount is valued only Rs.7,50,000/- and the Commercial Court is not having jurisdiction to entertain the said suit. The Commercial Court without properly considering the contentions of the petitioner has erroneously dismissed the application. In support of his contention, he relied on a decision of the Hon'ble Supreme Court in **Yamini Manohar vs. T.K.D.Keerthi**¹.

5. **Submissions of the learned counsel for the respondent:**

5.1 *Per contra*, learned counsel for the respondent submitted that the Commercial Court after considering the contentions of the respective parties rightly dismissed the I.A.No.240 of 2023 in C.O.S.No.17 of 2023 by giving cogent reasons and there are no grounds to interfere with the impugned order passed by the Commercial Court.

Analysis:

6. We have considered the rival submissions made by the respective parties and perused the material available on record. It is relevant to extract Section 12-A of the Act, which reads as follows:

"12A. (1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless

¹ (2024) 5 SCC 815

the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(2) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987, for the purposes of pre institution mediation.

(3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987, the Authority authorised by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1): 19 of 1987

Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:

Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963.

(4) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

(5) The settlement arrived at under this section shall have 26 or 1996 the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996."

7. The above said provision clearly says that when the suit does not contemplate any urgent interim relief under the Act, unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner, the plaintiff is not entitled to institute the said suit.

8. In the case on hand, the respondent filed the suit against the petitioner seeking for eviction of the suit schedule property, arrears

of mesne profits of Rs.7,50,000/- i.e. from 14.09.2022 till 01.05.2023 and direct the petitioner to pay mesne profits of Rs.4,00,000/- per month from the date of suit till the date of petitioner vacates the suit schedule property and also seeking damages of Rs.1,00,00,000/- and for various reliefs, on 05.05.2023. Along with the said suit, the respondent filed two applications i.e. I.A.No.154 of 2023 and 155 of 2023 under Order 15A and Section 151 of the Code of Civil Procedure, 1908 seeking interim injunction restraining the petitioner from doing business in the suit schedule property and also direct the petitioner to deposit Rs.4,00,000/- every month as mesne profits during pendency of the suit, failing which the right of defense of the petitioner will be forfeited. The above said two applications are filed for grant of urgent interim reliefs. Hence the provisions of Section 12-A of the Act is not applicable. The Commercial Court after considering the provisions of Section 12-A of the Act rightly held that the same is not applicable to the facts and circumstances of the case on hand.

9. Insofar as the other ground raised by the learned counsel for the petitioner for rejection of the plaint is that basing on the unregistered deed dated 11.08.2019, the respondent is not entitled to seek the eviction of the suit schedule property is concerned, the admissibility of the document will arise during the course of trial

and that stage is not yet reached. Especially the petitioner is not entitled to seek rejection of the plaint on the ground that the document is not registered and the ingredients of Order VII Rule 11 of the Civil Procedure Code, 1908.

10. In **Yamini Manohar** (supra), the Hon'ble Supreme Court held that in application under Order VII, Rule 11 of the Code of Civil Procedure, 1908, the Court has to look into the averments made in the plaint and the documents filed along with the plaint alone. The Court cannot at that stage look into the written statement or the documents filed along with the written statement.

11. Insofar as the other relief is concerned, in **Mustigulla @ Namaswamy Hemanth Kumar v. Abhaya Infrastructure Pvt. Ltd. And others**², the Division Bench of erstwhile High Court for the States of Telangana and Andhra Pradesh held that rejection of plaint on the ground of *res judicata*, cause of action, under valuation, limitation have to be decided on trial but the same cannot be a ground for rejection of plaint, especially when the parameters of Order VII Rule 11 of C.P.C. are not satisfied.

12. It is needless to observe that the respondent specifically mentioned that the value of the suit is Rs.1,55,50,000/- and the

² 2016 (6) ALD 598 (DB)

same is more than Rs.One Crore and basing upon the said value, the Commercial Court is having jurisdiction to adjudicate the suit.

13. For the foregoing reasons as well as the principle laid down in the above decisions, this Court does not find any irregularity or illegality in the impugned order passed by the Commercial Court to exercise the supervisory jurisdiction under Article 227 of the Constitution of India.

14. Accordingly, the civil revision petition is dismissed. No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

//TRUE COPY//

Sd/- MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

To,

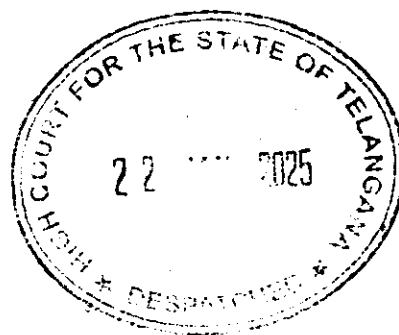
1. The Additional Special Court in the Cadre of District Judge for Trial and Disposal of Commercial Disputes at Hyderabad.
2. One CC to Sri Dida Vijaya Kumar, Advocate [OPUC]
3. One CC to Sri K. R. Raman, Advocate [OPUC]
4. Two CD Copies

VH/gh

18

HIGH COURT

DATED:06/01/2025



ORDER

CRP.No.13 of 2025

DISMISSING THE CRP

Geopeta
K
22/1/25