

**WITNESS IS PRESENT AND DULY SWORN ON 04.12.2024.**

**Cross examination by Sri.H.K.V advocate for respondent:**

I am M.Com Graduate and practicing Chartered Accountant. The address mentioned in my cause title is true and correct. The e-mail ID which is mentioned in page No.2 of Com.O.S.64/2023 judgment dated 25.07.2023 pertains to me. It is true to suggest that in my main petition at Para No.7 I have averred that on 10.01.2023 I received a SMS sent by this Court. After receiving the said SMS I spoke with the respondent Company's representative viz., Mayank. I have got documentary proof such as Whats App chats to show that I had a communication with said Mayank. I have not produced the said Whats App Communication before this Court. However, I can furnish the same.

**2.** It is true to suggest that as on 10.01.2023 I was aware that a case was pending against me before the Court. On 07.02.2023 (i.e., the date on which the case was listed for my appearance) I did not take any steps to engage an advocate to represent me before the Court. The witness volunteers to depose that as Mr.Mayank undertook that he is going to withdraw the suit which has been initiated by

their legal team hence, I did not appear on 07.02.2023 before the Court. In the Whats app communication sent by Mr.Mayank there is no mention that he is going to withdraw the suit. However, there is a mention in the Whats app chat that he will speak to his legal team and that for continuation of lease with tenants negotiation is going on.

**3.** Respondent has brought the tenant to the premises of the petitioner for which approximately 45 days rental has to be paid by me to the respondent. It is true to suggest that the said 45 days rent amounts to Rs.47,21,325/-. I have not paid the entire amount to the respondent however I have paid almost 50% of the amount. As a practicing chartered accountant I know the basic legal principles. It is false to suggest that I was bound to pay the commission amount to the respondent as soon as the lease agreement is entered in between my self and my tenant. Immediately the lease deed got executed there was out break of Covid-19 PANDEMIC and as the lock in periods was intended to be extended, I have not paid the commission amount to the respondent in full.

**4.** There is a letter entered in between myself and the present respondent regarding the terms of the commission

and the duties upon the respondent to bring the tenants with regard to my property. It is false to suggest that as per Professional fee agreement dated 14.06.2019 I was supposed to pay the commission to the respondent upon signing of the lease deed.

**5.** As the respondent herein called to me asking me to pay the amount so I came to know regarding the case as on 23.03.2024. There is no documentary proof with me to show that respondent called me asking for the amount. I had back pain and cervical spondylitis for the past 20 years. The said back pain and cervical spondylitis has affected my professional career. It is true to suggest that in Ex.P.6 at 4<sup>th</sup> line there is a mention that 'no pain since 5 years'.

**6.** On being questioned as to whether the witness has got any medical records from 10.01.2023 till 07.04.2023 to show that he was disabled to appear before the Court, the witness depose that at that relevant point of time he was taking Ayurvedic treatment and he will verify regarding the said Ayurvedic documents. The witness further volunteers to depose that he has got MRI reports pertaining to that period I can produce the same.

7. As a professional chartered accountant I am aware that as soon as summons is served upon me I need to appear before the Court on a given date. The witness volunteers to depose that as the respondent herein assured that he will withdraw the suit and due to the continuation of relationship and as the lease agreement got terminated he did not appear before the Court. The lease agreement got terminated some where in the month of August/September 2023. It is true to suggest that the lease agreement got terminated only after receiving the summons by me from the Court.

**Further cross examination: Deferred at the request of Sri.H.K.V advocate for respondent:**

(Typed to my dictation in the open court)

**ROI and AC**

**(RAJENDRA KUAMR.K.M)  
LXXXIX Addl. CC & SJ, Bengaluru.**