

In the High Court of Judicature at Madras

Dated : 06.03.2015

Coram :

The Hon'ble Mr.Sanjay Kishan Kaul, Chief Justice

O.P.No.766 of 2012

L.Ramesh

.. Petitioner

-vs-

S.Rajeswari

.. Respondent

Petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, to resolve the dispute between the petitioner and the respondent arising out of the lease agreement dated 05.03.2010.

For Petitioner : Mr.A.Murali

For Respondent : No appearance

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O R D E R

The petitioner is the owner of flat bearing No. 106, First Floor, C-Block, Jasmine Court, Kattupakkam, in pursuance to the sale deed registered on 24.11.2009. The petitioner claims that since the schedule property was constructed in the month of February 2010, the tenancy is exempted under section 30 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960, as amended by Act 23 of

1973 and Act 1 of 1980 and a 11 months' lease deed was executed on 05.03.2010 letting out the property upto 31.01.2011 on a monthly rent of Rs.15,000/- and maintenance charges of Rs.3,000/- as per the lease deed dated 05.03.2010. The lease is stated to have been renewed for a further period of 11 months upto 31.12.2011 at the revised rent of Rs.22,000/- per month. But defaults are stated to have been committed from the month of June 2011 and despite notices, position was not remedied.

2.The respondent is stated to have filed a suit in O.S.No.3 of 2012 before the District Munsif of Poonamallee, seeking the relief of permanent injunction against eviction except by due process of law claiming that they had paid the rents till date. The lease was, in fact, liable to be terminated if the respondent was in default of rent for more than two months. The lease was terminated, but no response was forthcoming and the amount, which has been accumulated as on 31.08.2012, is stated to be Rs.3,30,000/-, which is now stated to be increased to Rs.9,90,000/-, as per the submission of learned counsel for the petitioner. The suit filed by the respondent is also stated to have been dismissed on merits.

3.The present petition is filed under section 11 of

the Arbitration and Conciliation Act, 1996, and despite service, none has put in appearance for the respondent and no reply has been filed. Thus, it is a case of no return.

4. In view of the allegations made in the petition, which remained unrebutted, it is obvious that there is a written contract inter se the parties containing the arbitration clause and disputes have arisen, which have to be decided in Chennai as per the arbitration clause, which reads as under:

'In the event of any dispute arising between the LESSOR and LESSEE in respect of any of the terms and conditions of the Agreement, the same shall be referred to a single Arbitrator for Arbitration. The Arbitrator shall be appointed mutually by the LESSOR and the LESSEE. The venue of Arbitration shall be in Chennai and shall be conducted in the English language and all awards shall be reasoned awards, which disclose the factual and legal basis for the same.'

5. In view of the aforesaid, I appoint **Mr. N.R.R. Arun Natarajan, Advocate, residing at No.C-527, Jagannathan Salai, Periyar Nagar, Chennai - 600 082**, who is present in Court, as the Sole Arbitrator to enter upon reference and after issuing notice to the parties and upon hearing them,

pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order. The learned Arbitrator is at liberty to fix the remuneration and other incidental expenses, which shall be borne by the parties equally. In the event of respondent not entering appearance, the same may be borne by the petitioner at the initial stage to form part of the main cause.

6.The original petition is, accordingly, allowed, leaving the parties to bear their own costs.

Sd/. (S.K.K., CJ.)
06.03.2015

//Certified to be a true copy//

Dated this the day of 2016

R.s/05.01.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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