

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2016

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE R.MAHADEVAN

O.S.A.No.234 of 2016

M/s.Sricharan Foods rep. by its Proprietor
Mrs.Lavanya
151, V.S.Industrial Estate,
Perungudi, Chennai 600 096
Office at 71-73, Bay Watch,
Vettuvankeni, East Coast Road,
Chennai 600041. .. Appellant

versus

M/s.Oriental Cuisines Pvt. Ltd.,
rep. by its Chief Executive Officer,
Registered Office at No.74, Cathedral Road,
Chennai 600 086. .. Respondent

Appeal filed under Order 36 Rule 9 of Original Side Rules read with Clause 15 of the Letters Patent Act, against the order dated 12.09.2016 passed in O.A.No.251 of 2016, on the file of the learned single Judge of this Court.

Original Applicator praying that this Hon'ble Court may be pleased to granting interim injunction restraining the Ist respondent their men, agents, servants, employees, transferees, successors in interest or any other persons claiming through them from dispossessing or evicting the Applicant otherwise than in accordance with Law and due process and procedure established by Law and due course of Law from the demised premises M/s.Tata Reality and Infrastructure Ltd. Info Park at Ramanujam IT City Taramani Rajiv Gandhi Salai (OMR) Chennai 113 on the ground floor of Block C (Naveille Tower) Counter No.2 Out of Seven counter more fully described in the schedule hereunder and in any manner interfering with the applicant peaceful possession and enjoyment of said Food Court Counter No 2 as agreed thereof.

For Appellant .. Mr.T.Ravichandran

For Respondent .. Mr.S.Vijayan

J U D G M E N T

(Judgement of the Court was delivered by The Hon'ble Chief Justice)

This appeal is directed against the impugned order dated 12.09.2006 passed by the learned single Judge, in terms whereof on the expiry of the Concessionaire Agreement which expired on 31.12.2015 and the fresh concessionaire having been inducted on 14.01.2016, liberty was granted to the appellant to remove its utensils etc., by appointment of a Local Commissioner. The Proprietor of the appellant was permitted to visit the premises to identify the materials and equipments that belonged to her and for the Commissioner to carry out the exercise of finding out whether there is any material or equipment belonging to the appellant to be handed over to them.

2. It is the case of the appellant that since materials and equipments of the appellant were found in the premises, it would imply that the appellant is in possession and should be continued to use the premises, despite the time period having elapsed.

3. Learned counsel appearing for the respondent states that in fact, the respondent had filed a caveat and two subsequent orders were passed in view of the fact that the appellant refused to accept the materials and equipments as per the report of the Advocate Commissioner. Further, one week time was given for the appellant to take delivery, otherwise they were not entitled to the benefit of return of any such equipment or machinery.

4. We find really no merit in the contention of the appellant. The impugned order has given sufficient opportunity to the appellant to remove its material and equipments and the mere fact that there may be some materials and equipments of the appellant does not entitle the appellant to continue the possession, which is stated to have been already handed over to the subsequent Concessionaire by the respondent.

5. We are also informed by the learned counsel for the respondent that the Arbitration proceedings have commenced, but the appellant has not chosen to appear for the first hearing. The subsequent orders also have not been disclosed in the appeal.

6. The discretion has been exercised by the learned single Judge under Section 9 of the Arbitration and Conciliation Act, 1996 appropriately.

7. We find no merit in the appeal and it is accordingly dismissed, leaving the parties to bear their own costs. Consequently, CMP.Nos.18109 and 18110 of 2016 are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

+1cc to Mr.S.Vijayan, Advocate sR.66608
+1cc to Mr.T.Ravichandran, Advocate Sr.66058

O.S.A.No. 234 of 2016

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srg 30/11/2016

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