

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated : 05.12.2018****CORAM :****THE HONOURABLE MR. JUSTICE M.S.RAMESH****CRP.(PD).No.2587 of 2016****and****C.M.P.No.13332 of 2016**

R.Lakshminarasimha Moorthy

.. Petitioner

V.

M/s.Corporater Asia Technologies Pvt. Ltd.,
having office at First Floor,
Century Centre, No.75, TTK Road,
Alwarpet, Chennai-600 019,
rep. by its Manager and Power of Attorney
Mr.Jude Bruno
S/o.Soosai Arul

.. Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 06.06.2016 made in I.A.No.1100 of 2016 in O.S.No.5207 of 2015 on the file of the learned III Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.P.Rajalingam

For Respondent : Mr.S.William

ORDER

Being aggrieved against the order passed by the learned III Additional Judge, City Civil Court, Chennai in I.A.No.1100 of 2016 in O.S.No.5207 of 2015 dated 06.06.2016, the present revision has been filed.

2.Heard Mr.P.Rajalingam, learned counsel for the petitioner and Mr.S.William, learned counsel appearing on behalf of the respondent.

3.The learned counsel for the petitioner submits that out of the advance amount of Rs.25,20,000/-, a considerable sum was deducted in view of the damages caused to the demised premises and he had paid the balance of the advance amount to the tune of Rs.5 lakhs towards full and final settlement and as such, if the plaintiff is aggrieved against the deduction, the matter requires to be referred for arbitration. He further submitted that in view of Section 8 of the Arbitration and Conciliation Act, the suit itself is not maintainable.

4.The learned counsel for the respondent on the other hand submitted that out of the total security deposit of Rs.25,20,000/-, the petitioner herein had agreed to pay a sum of Rs.21,70,000/- after deducting the alleged damages caused and in pursuant to the agreement, he had made a part payment of Rs.5 lakhs through a cheque, which came to be dishonoured and after that, the respondent herein had sent a legal notice of demand which was neither replied nor any amount has been paid and it is in this

background, the suit came to be filed. He further submitted that when the amount has been quantified, the same was admitted by the petitioner herein, there is no dispute arising out of the arbitration agreement. Therefore, the plaint does not requires to be rejected.

5.I have given careful consideration to the submissions made by the respective counsels.

6.The ground on which the petitioner seeks for rejection of the plaint is that there is an arbitration clause in the lease agreement and therefore, the plaintiff cannot seek for refund of the amount in the present suit without invoking the arbitration clause and as such, the suit itself is barred under Section 8 of the Arbitration and Conciliation Act, 1996.

7.A reading of the plaint averments shows that the plaintiff had paid a sum of Rs.25,20,000/- to the respondent. It is the case of the plaintiff that after deliberations, the plaintiff agreed to have a deduction of Rs.3,50,000/- from the security deposit. As such, the defendant was required to pay a sum of Rs.21,70,000/-. It is the specific case of the respondent herein that since the petitioner herein had defaulted in making the agreed amount, he had

preferred the suit. From the averments in the plaint, it cannot be said that the dispute with regard to the repayment of the security deposit arises out of the terms of the lease agreement dated 19.04.2011. When the averments caused to show that the petitioner herein had agreed to the quantified amount to be returned to the plaintiff and the cause of action in the suit arose for non payment of the alleged agreed amount, it cannot be said that the terms of the lease agreement has been violated or that the dispute in the present suit arise out of the terms of the agreement. As such, the arbitration clause in the lease agreement may not be of any help to the petitioner herein.

8. In the light of the above observations, I do not find any infirmity in the order passed by the trial Court in I.A.No.1100 of 2016 filed under Order 7 Rule 11 of the Civil Procedure Code. Consequently, the Civil Revision Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

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Index : Yes/No
speaking order/non speaking order

DP

To

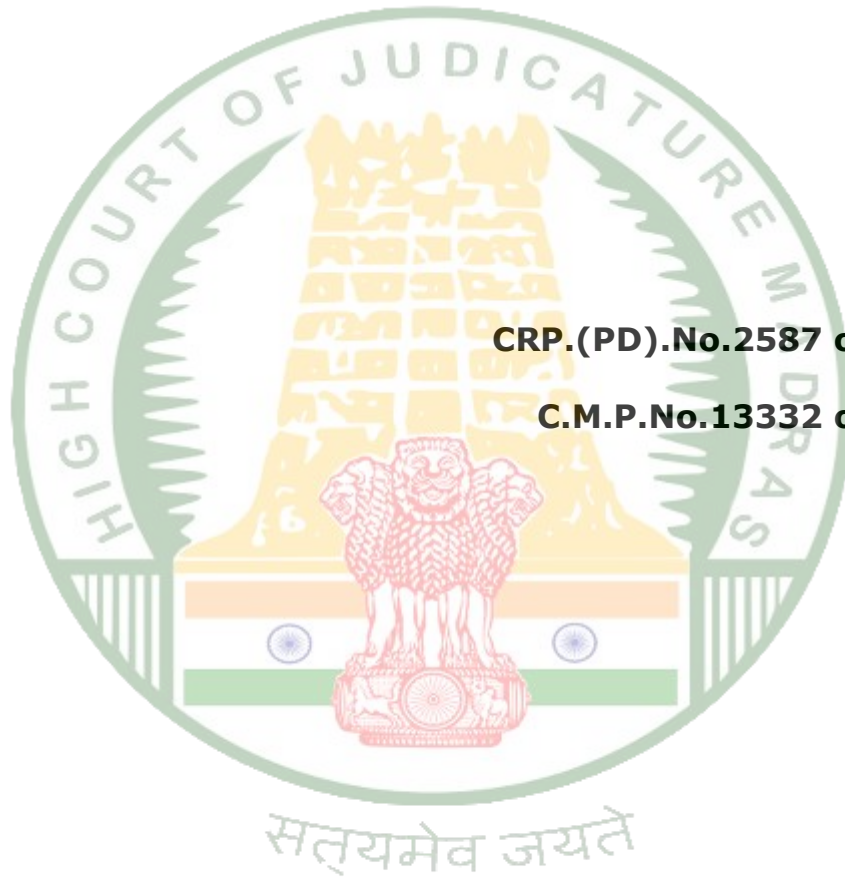
The III Additional Judge,
City Civil Court, Chennai.



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M.S.RAMESH.J,

DP



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