

In the High Court of Judicature at Madras

Dated : 22.3.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Original Side Appeal No.75 of 2019 & CMP.No.7216 of 2019

1.Mrs.Shabna Akmal

2.Mr.Akmaludin

...Appellants

Vs

Ms.Reshma Mahtani

...Respondent

APPEAL under Order XXXVI Rule 9 of the Original Side Rules read with Clause 15 of the Letters Patent against the order dated 12.2.2019 passed in A.No.202 of 2019. Application praying that this Hon'ble Court be pleased to direct the Respondent to deposit a sum of Rs.63,000/- every month towards the continued use and occupation of the subject property from 01.01.2019, pending disposal of arbitration proceedings.

For Appellants : Mr.G.Dakshinamurthy

Judgment was delivered by T.S.SIVAGNANAM,J

We have heard Mr.G.Dakshinamurthy, learned counsel for the appellants.

2. This appeal is directed against the order dated 12.2.2019 in A.No. 202 of 2019. By the impugned order, the learned Single Judge directed the appellants to deposit a sum of Rs.1 lakh within a period of two weeks from the date of receipt of a copy of the impugned order to the credit of the said application and a further sum of Rs.1 lakh within another 15 days, failing which, it was made clear that adverse orders would be passed against the appellants herein.

3. The said application is still pending before the learned Single Judge. The learned Single Judge, in paragraph 5 of the impugned order, recorded the submissions made by the learned counsel for the appellants herein stating that the appellants wanted time to file a counter in the said application. Even according to the appellants, the rental arrears/license fee arrears should not be beyond Rs.2.5 lakhs since a huge amount of rental advance had already been paid by the appellants and it is

lying with the respondent herein and hence, the rental arrears as on date would not go beyond Rs.2.5 lakhs.

4. In our considered view, since the said application is pending before the learned Single Judge, it is but appropriate for the appellants to canvass all the points in the said application. As the said application has not yet been disposed of, an appeal under Clause 15 of the Letters Patent would not be maintainable. Therefore, we are not inclined to entertain the appeal.

5. Accordingly, the above original side appeal is dismissed. Consequently, the connected CMP is also dismissed.

6. We make it clear that it is well open to the appellants to raise all the contentions before the learned Single Judge.

7. On instructions, the learned counsel for the appellants submits that they seek modification of the order passed by the learned Single Judge. 8. In such an event, it will be open to the appellants to do so if they are so advised.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

RS

To

The Sub Assistant Registrar
Original Side, High Court, Madras

OSA.No.75 of 2019 &
CMP.No.7216 of 2019

SR(CO)
GMY (25/04/2019)

सत्यमेव जयते

WEB COPY