

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 11TH DAY OF JANUARY 2019

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

A.NO.10146 of 2018

in

O.P. No.665 of 2018

In the matter of
Arbitration and
Conciliation Act and
In the matter of
Arbitration as per the
Lease Agreement dated
10.12.2013, between
Mr.B.Anand Raja Durai and
M/s.RU-AH Ministries,
Rep.by its Managing
Trustee.

Mr.B.Anand Raja Durai
"Good Shepherd Square"
Door No.82, Kodambakkam High Road
Nungambakkam
Chennai - 600 034.

...Petitioner

-Vs-

M/s.RU-AH Ministries
Rep.by its Managing Trustee
No.20/28, Dr.Ambedkar Main Road
Samiyar Madaum Bus Stop
(Opp. HDFC Bank and behind Madras Kitchen)
Kodambakkam, Chennai - 600 024.

...Respondent

A.No.10146 of 2018:

M/s.RU-AH Ministries
Rep.by its Managing Trustee
No.20/28, Dr.Ambedkar Main Road
Samiyar Madaum Bus Stop
(Opp. HDFC Bank and behind Madras Kitchen)
Kodambakkam, Chennai - 600 024.

...Applicant/Respondent

Mr.B.Anand Raja Durai
"Good Shepherd Square"

Door No.82, Kodambakkam High Road
Nungambakkam
Chennai - 600 034.

...Respondent/Petitioner

Application praying that this Hon'ble Court be pleased to condone the delay of 68 days in filling the petition to set aside the Order dated 07.08.2018 passed by the Hon'ble Court of Judicature at Madras.

This Application coming on this day before this Court for hearing the court made the following order:

The applicant is the tenant and the respondent is the landlord. Originally the petition under Rent Control Act was filed for eviction on the ground of willful default. During the pendency of the above eviction petition, the applicant/tenant submitted that the matter shall be referred to an Arbitrator and filed a petition to that effect. But that was not accepted by the respondent and ultimately the Rent Control proceedings were continued and concluded and the applicant handed over the key to the respondent/landlord. After the eviction of the premises, the respondent issued notice to the applicant demanding payment of arrears of rent to the tune of Rs.1,05,41,427/- . According to the applicant, he was out of India and has not received any notice, it was received by somebody else. However, the respondent issued another notice invoking Arbitration Clause, even that, according to the applicant was not received by him. Thereafter, the respondent

approached this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996, and this Court ordered notice to the respondent. Again the notice was received on behalf of the applicant by someone else. This Court appointed a Retired Judge of this Court as an Arbitrator. The applicant has appeared before the Arbitrator, on receipt of notice from him. He pleads that the respondent having objected for invocation of Arbitration Clause, during the pendency of the eviction proceedings, now cannot go back and ask for referring the matter to Arbitration. He has primary objection as to the conduct of respondent and to the maintainability of Arbitral dispute.

2.I have considered the rival submissions.

3.Admittedly, there is an agreement containing Arbitration Clause between the parties and an Arbitrator was also appointed pursuant to the application under Section 11 (6) of the Arbitration and Conciliation Act, 1996. The applicant has no grievance, insofar as the appointment of a Retired High Court Judge as an Arbitrator. The grievance of the applicant as of now is with regard to the conduct of the respondent in seeking referral notice issued to arbitration. It is true that the respondent objected to the referral of the matter during the pendency of the eviction proceedings.

4.In law, when there are special statutes protecting the rights of the parties is available and in matters where elaborate evidence is required to decide question of law, which are matters "in rem" it is always

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