

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Original Application .No.475 of 2021

M/s.Embassy Services Private Limited,
Represented by its Authorized Signatory,
Chandrasekar B
having its Office at Floor, Embassy Point,
No.150, Infantry Road, Bangalore – 560 001.

.. Petitioner

.Vs.

Embassy Residency Apartment Owners Association,
having its Registered Office at No. 439,
CheranNagar, Saraswathi Rajasekhar Salai,
Perumbakkam, Chennai – 600 100.

.. Respondent

* * *

Prayer: Application filed under Order XIV Rule 8 of Original Side Rules Read with Section 9 of the Arbitration and Conciliation Act, 1996 Read with Section 151 of the Code of Civil Procedure, 1908 for interim injunction restraining the respondent, its men, agents, members or anyone acting through or under the respondent herein from terminating the Property Management Agreement dated 14.08.2015 between the applicant and the respondent, pending arbitration proceedings.

ORDER

This application has been filed for temporary injunction to restrain the respondent from terminating the Property Management Agreement dated 14.08.2015 entered between the petitioner and the respondent.

2. It is stated by the applicant that the agreement dated 14.08.2015 namely, Property Management Agreement, wherein the applicant has been appointed as a service provider for management and maintenance of the building and the term of the agreement is for a period of 15 years with effect from 01.01.2015. It is agreed as per clause 4.02 of the agreement that the consideration payable to the applicant is at the rate of 15% on the cost of maintenance including utility charges, electricity, water, diesel, insurance and statutory charges [management fees] and the same is initially fixed for the first two years. Any increase in the percentage of management fees from the third year shall be agreed between the applicant and the respondent in writing on or before the first quarter of each financial year. The parties have also agreed for mode of payment of management fees. When the management fees at the rate of 15% was continuing, the respondent started negotiating the management fees and the prolonged negotiations lasted from 2019 to 2021.

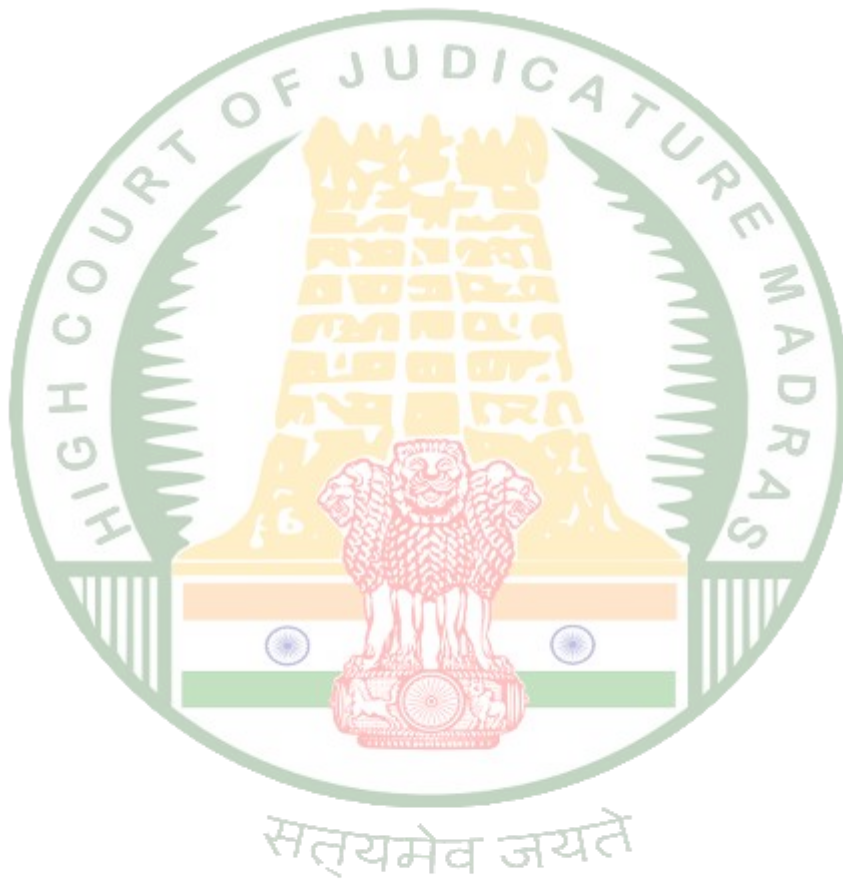
3. When the matter stood thus, suddenly, after filing of this application, a letter dated 03.08.2021 was issued by the respondent for terminating the Property Management Agreement. Hence, it is the contention of the learned Senior Counsel that the termination notice itself is not according to law and the termination notice can be issued only as per Clause 4.04 of the agreement and the above clause makes it very clear that for issuing such notice atleast 120 days is required for terminating the agreement. When the services of the applicant is continuing, abruptly, such notice is issued and the respondent is trying to induct competitor in the business. Hence, prayed for interim injunction.

4. Having regard to the above submissions, when the agreement is seen, the agreement entered between the parties is for a period of 15 years with effect from 01.01.2015 and as dispute arose in respect of fixing of the management fees and the same has to be negotiated as per the contract and without following the contract, abruptly issuing termination notice and trying to induct competitor/third party, which will lead to further consequences and defeat the rights of the parties and considering the prima facie case made out by the applicant and as there is balance of convenience in favour of the applicant and the hardship that may be incurred by the applicant when the third party is inducted, there shall be an Order of injunction from giving effect to the termination notice dated 03.08.2021

5. Notice to the respondent returnable by 26.08.2021 Private notice is also permitted. The applicant shall comply Order 39 Rule 1 CPC by then.

10.08.2021

vrc



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N. SATHISH KUMAR, J.

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10.08.2021