

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(PD) No.1773 of 2021
and C.M.P.No.13720 of 2021**

Tower Vision India Private Limited
Represented by its Deputy Manager
Ramaniyam "The Lords"
Block 1, No.1 & 2 NP
Jawaharlal Nehru Road
Ekkaduthangal, Chennai – 32
...Petitioner

Vs.

1. N.Noor Mohamed
2. N.Rawoof
3. N.Ashraf Ali

...Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India as against the institution of the suit in O.S.No.207 of 2020, on the file of District Munsif Court, Alandur.

For Petitioner : Ms.R.Poornima

ORDER

This Civil Revision Petition is filed under Article 227 of the Constitution of India to strike down the plaint as illegal and incompetent.

2. The learned counsel for the petitioner submitted that there is a license agreement dated 28.08.2010, entered into between the petitioner and the respondents with regard to the lease of the respondents building for erection of cell phone tower. In the license deed there is a specific clause that all disputes/differences arising between the parties can be resolved only by invoking the provisions of Arbitration and Conciliation Act, 1996. However, without referring the matter to the arbitrator, the respondents filed present suit in O.S.No.207 of 2020 against the petitioner seeking relief of permanent injunction restraining the petitioner, his men, agents, servants or any other person or persons can be in any way subletting the scheduled properties to third party except by the due process of law.

3. It is the submission of the learned counsel for the petitioner that filing of the suit for the aforesaid prayer is contrary to the terms and conditions and it is abuse of process of law. Whatever dispute between the parties, that has to be referred to the sole arbitrator and issue to be resolved under Arbitration and Conciliation Act, 1996.

4. Considered the submissions of the learned counsel for the petitioner and also perused the records.

5. The licence deed dated 28.08.2010 has been executed between the parties in connection with installation of cell phone tower and the rights and liabilities of the parties there to. The allegations made against the petitioner and in the plaint is that the petitioner is trying to put third party into the possession of the suit property without the knowledge and consent of the respondents. That is the reason why the suit is filed.

6. Apparently, there is no specific clause with regard to giving power to the petitioner to sublease the premises. Thus it is apparent on the face of the record that the respondents have made out a cause of action for instituting the suit. This suit cannot be considered as abuse of process of court. Petitioner has approached this court, without taking any efforts to file an application before the learned District Munsif, Alandur under Order 7 Rule 11 for rejection of plaint. Only if the grounds under Order 7 Rule 11 is not available and there is clear abuse of process of court, the petitioner can

invoke Article 227 of the Constitution of India to file this petition. By passing Order 7 Rule 11 of C.P.C., the present petition filed, directly before this court is clearly not maintainable.

7. So far, all these reasons, this court dismisses this Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

Ep/Jer

01.09.2021

Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No

To

1.The Additional District Munsif,
Alandur.

2.The Section Officer
VR Section
High Court of Madras.

सत्यमेव जयते
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G.CHANDRASEKHARAN.J.

Ep/Jer



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