



O.S.A.(CAD) No.12 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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M/s.Miraj Entertainment Limited,
rep. by Samir Subhash Samant
Vice President : Legal
705-706, Eureka Towers,
Wing B, Mind Space, Off Link Road,
Behind Toyota Show Room,
Malad (West), Mumbai-400 064,
Maharashtra.

.. Appellant

Vs

A V R N Hotels Private Limited,
12, Jawaharlal Nehru Salai,
Inner Ring Road,
Arumbakkam,
Chennai-600 106.

.. Respondent

Prayer: Appeal filed under under Section 13(1A) of the Commercial Courts Act read with Order XXXVI Rule 1 of the Original Side Rules against the fair and decretal order dated 05.01.2023 passed in A.No.5859 of 2022 in C.S.(Comm.Div) DR.No.140611 of 2022.



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For the Appellant : Mr.Dhanaram Ramachandran

For the Respondent : Mr.R.Srinivas
Senior Counsel
assisted by
Mr.M.Santhanaraman

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

This original side appeal has been directed against the fair and decretal order dated 5.1.2023 of the learned Single Judge made in A.No.5859 of 2022 in C.S.(Comm.Div) DR.No.140611 of 2022.

2. The appellant had file the suit, inter alia, seeking a declaration to declare that the unilateral termination of the lease deed dated 4.12.2019 by termination notice dated 8.11.2022 and 23.11.2022 issued by the respondent is null and void; apart from permanent injunction restraining the respondent, their men and agents or any other persons claiming or acting under them from acting in derogation of the lease deed dated 4.12.2019 as amended



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by the Minutes of Meeting dated 7.12.2021, e-mail dated 7.3.2022 issued by the respondent and purchase orders dated 30.3.2022 issued by the appellant in any manner whatsoever has filed along with an application. Along with the suit, the appellant filed A.No.5859 of 2022 seeking leave to sue under Clause 12 of the Letters Patent.

3. The learned Single Judge, vide order dated 5.1.2023, dismissed the said application and directed the Registry to return the plaint and suit documents together with court fee paid by the appellant for a proper re-presentation of the plaint before the jurisdictional Court in Kancheepuram District immediately.

4. Learned counsel for the appellant would submit that the learned Single Judge arrived at a wrong finding that the suit filed by them would be barred under Clause 12 of the Letters Patent, as the appellant and the respondent have conferred the jurisdiction on the Courts in Kancheepuram, Chennai, in respect of the dispute arising out of the lease deed dated 4.12.2019 executed between them. He



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pleaded that the aforesaid finding of the learned Single Judge is running contrary to the several decisions of the Hon'ble Supreme Court as well as this Court and also against Clause 12 of the Letters Patent dealing with four different instances.

5. Adding further, learned counsel for the appellant submitted that the impugned order of the learned Single Judge would show that the lease deed dated 4.12.2019, as amended by the Minutes of Meeting dated 7.12.2021 and the e-mail dated 7.3.2022 and also the purchase orders dated 30.3.2022, has effectively become a lease-cum-job work agreement whereby the respondent agreed to carry out the task set out in the purchase orders and, in such case, considering the hybrid nature of the agreement between the parties, the enforcement of the agreement would require only the obedience of the respondent and, therefore, this Court has got jurisdiction to grant all the reliefs that are prayed for by the appellant. However, this has been completely overlooked by the learned Single Judge while passing the order, he pleaded.



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6. Continuing his argument, learned counsel for the appellant submitted that the learned Single Judge erred in arriving at a conclusion based on the judicial precedents cited in the course of arguments such as **(i) Adcon Electronics Private Limited v Daulat and another, (2001) 7 SCC 698; (ii) Moolji Jaitha and Co. v. Khandesh Spg. and Wvg. Mills Co. Ltd., AIR 1950 FC 83; and (iii) Debendra Nath Chowdhury v. Southern Bank Limited, AIR 1960 Cal 626.** He submitted that the aforesaid precedents squarely clarify the position of law on suit for land and applying the said precedents to the case on hand, the suit filed by the appellant is not a suit for land. Therefore, the approach adopted by the learned Single Judge is untenable in law. Thus, the learned counsel prayed for setting aside the order of the learned Single Judge.

7. In reply, Mr.R.Srinivas, learned Senior Counsel assisted by Mr.M.Santhanaraman, learned counsel, submitted that A.No.5859 of 2022 filed by the appellant seeking leave to institute a suit against the respondent cannot be countenanced inasmuch as the suit filed



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by the appellant was nothing but a suit for land/immovable property situated outside the jurisdiction of this Court and within the jurisdiction of Kancheepuram District. Therefore, the learned Single Judge has rightly disallowed the application holding that the property in question falls within the jurisdiction of Courts at Kancheepuram. Since the finding arrived at by the learned Single Judge is based on the documents coupled with law, there is no ground to interfere with the same, he pleaded.

8. We have considered the rival submissions and also perused the materials available on record.

9. *Prima facie*, the property in respect of which the lease agreement dated 4.12.2019 was executed between the parties, qua which a prayer for specific performance is sought by the appellant in the plaint, falls within the jurisdiction of Courts at Kancheepuram. In view of the above, the learned Single Judge directed the Registry to return the plaint and suit documents together with court fee to the appellant to be presented before the jurisdictional Court in



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Kancheepuram District. In paragraph 30, the learned Single Judge held as under:

"30. A reading of the averment in the plaint and the affidavit filed in support of the application and the documents filed by the appellant/plaintiff in respect of the suit indicates that the present suit filed by the applicant/plaintiff would be barred under Clause 12 of the Letters Patent Act. The applicant and respondent have also conferred the jurisdiction on the Courts in Kancheepuram, Chennai in respect of the dispute arising out of the lease deed dated 04.12.2019 executed between them."

10. We are of the view that such findings arrived at by the learned Single Judge cannot be found fault with and the reasonings given by the learned Single Judge in dismissing A.No.5859 of 2022 are perfectly correct. That apart, on a perusal of the materials, it is clear that the parties have conferred the jurisdiction on the Courts in Kancheepuram first and Chennai as second in respect of the dispute arising out of the lease deed dated 4.12.2019 executed between them. Therefore, we do not find any infirmity in the order



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of the learned Single Judge warranting interference. Hence, the appeal fails and the same is liable to be dismissed.

11. A suit for specific performance of lease agreement automatically leads to passing of possession/interest and, hence, would be a suit on land. This apart, in this case, though couched in different language "to act as per purchase order", "to act as per lease agreement", possession is effectively prayed in the suit and, hence, it is a suit on land.

12. Accordingly, the original side appeal is dismissed. There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
07.03.2023

Index : Yes/No
Neutral Citation : Yes/No
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To:

The Sub Assistant Registrar
Original Side
High Court, Madras.



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T.RAJA, ACJ
AND
D.BHARATHA CHAKRAVARTHY, J.

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