



CRP.No.924 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2023

CORAM:

THE HONOURABLE MRS.JUSTICE **T.V.THAMILSELVI**

CRP.No.924 of 2023 and
CMP.No.6880 of 2023

1.M/s.GTL Infrastructure Ltd.,
City Centre, 3rd Floor,
New No.232, Old No.186,
Puruswalkam High Road,
Kilpauk, Chennai-10

2.The Manager, M/s.GTL Infrastructure Ltd.,
Registered Office, Global Vision Electronic Sadan
II MIDC, TTC Industrial Area, Mahape,
Navi Mumbai 400 710

... Petitioners

Vs.

1.V.Surya Prabha
2.Ve.Ge.Raju

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 06.01.2023 passed in IA.No.1 of 2022 in OS.No.868 of 2022 pending on the file of the VII Assistant City Civil Court, Chennai and refer the parties to arbitration.

For Petitioners : Mr.C.Sakthimanikandan

For Respondents: Mr.V.Chanakya



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ORDER

This civil revision petition has been filed to set aside the fair and decretal order dated 06.01.2023 passed in IA.No.1 of 2022 in OS.No.868 of 2022 pending on the file of the VII Assistant City Civil Court, Chennai and refer the parties to arbitration.

2. When the matter was taken up, the learned counsel for the petitioners submits that as per the lease agreement between the parties, there is arbitration clause in the lease agreement dated 25.03.2009 and without invoking arbitration clause, the suit was filed by the respondents, as such is not maintainable. But the trial Judge also failed to appreciate the said aspect and erroneously dismissed the application filed in IA.No.1 of 2022 filed by the petitioners by invoking Section 8 of the Arbitration and Conciliation Act, 1996. Admittedly, the respondents herein are the landlords who agreed to lease property of 1200 sq.ft. in favour of M/s.Aircel Cellular Limited in the year 2009 for monthly rent and the same has to be enhanced periodically. Accordingly, now the present rent is Rs.13,000/- per month. Due to loss occurred in the business, as such now the tower has been sold to the present



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revision petitioners in the year 2017. Since there is a default in payment of the rent, the landlords approached the civil court by filing the suit in OS.No.868 of 2022 on the file of the VII Assistant City Civil Court, Chennai and claimed damages for use and occupation and recovery of possession. In that suit, the defendants / revision petitioners appeared and filed application under Section 8 of Arbitration and Conciliation Act praying the court to refer the matter for arbitration. But the same was dismissed by the trial judge holding that the lease was originally with M/s.Aircel Cellular Limited and not with the present defendants and so, they are not entitled to invoke Section 8 of the said Act, in which they are not party. Accordingly, the application was dismissed. Challenging the same, the present revision has been filed.

3. The learned counsel appearing for the landlords submits that both the landlords are aged about more than 65 years and near about three years, they were not paid any rent and they are depending it for their livelihood and prayed to vacate the premises.

4. The learned counsel for the revision petitioners also submits that due to various reasons, the revision petitioners sustained loss in the business



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and also facing other litigations and they are unable to pay arrears of rent as they claim including covid period.

5. Therefore, the contention of the revision petitioners is that they are unable to settle the rent arrears since they sustained loss in the business. However, on seeing the fact that now landlords are aged about 65 years, considering the same, the respondents / plaintiffs are advised to give up their arrears of rent provided the revision petitioners are directed to vacate the premises and hand over the same to the landlords / respondents. Since because the revision petitioners are agreed to vacate the premises, arrears of rent ordered to be paid by the revision petitioners also waived as per the agreed terms. If the revision petitioners fail to comply with the order of eviction, the plaintiffs/respondents are entitled to work out arrears of rent by filing execution petition before the court of law. After vacating the premises, the plaintiffs are directed to withdraw the suit within the period of one week from the date of handing over the possession. Further, it is directed to list the matter after three months.



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6. With the above directions, this civil revision petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Post the matter after months on 17.07.2023

06.04.2023

Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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T.V.THAMILSELVI, J.

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To
VII Assistant City Civil Court,
Chennai

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