

A.No.868 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
24.02.2025

PRONOUNCED ON
10.03.2025

CORAM

THE HONOURABLE MR JUSTICE K.KUMARESH BABU

A.No.868 of 2025

in

C.S.No.278 of 2024

Mrs.Suchi Jain
W/o Late Rahoul Jain, T29, 2nd Floor,
7th Avenue, Opposite To Santhosh Hospital,
Besant Nagar, Chennai - 600 090.

Applicant(s)

Vs

1.Mrs.Nisha Nandakumar

2.Ms.Krupa Nandakumar

Both Permanently Residing At Old No.95, New
No.6, Venkatratnam Nagar, Adyar, Chennai 20.

Rep., by their POA holder,

Mr.Prabu

Respondent(s)

For Applicant(s): Mr.S. Manoj for
M/s.Kannammal

For Respondent(s): Mr.R.Balachanderan

ORDER

This application had been filed to dismiss the Suit in C.S.No.278 of

2024 and refer the matter to arbitration as per the arbitration clause in the



rental agreement.

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2. The learned counsel appearing for the applicant would submit that the applicant and the respondents have entered into an agreement of lease wherein clause 21 provides for an arbitration clause. According to him any dispute or differences and claims that arise out in execution, performance or in the interpretation of any of the conditions or terms of the agreement would have to be referred to a single Arbitrator, as per the provisions of the Arbitration and Conciliation Act, 1996, (hereinafter referred to as 'Act'). He would submit that without referring the dispute for arbitration, the present Suit had been filed and hence he had taken out the present application under Section 8 of the Act to dismiss the Suit and refer the parties to the Arbitration. He would draw the attention of this Court to clause 21 of the agreement to substantiate his claim.

3. On the contrary, the learned counsel appearing for the respondents/plaintiffs would submit that in the present application filed by the applicant/defendant is only with an intention to protract the proceedings. He would submit that the lease had been statutorily determined under the provisions of the Transfer of Property Act and therefore, there is no relationship of the Landlord and Tenant between the parties. He would



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further submit that on determination of the lease, there is a statutory obligation on the part of the applicant/defendant to vacate and hand over the Suit Schedule property. Therefore, he would submit that the possession of the applicant is illegal and wrongful. Hence, he preferred a Suit for ejectment. He would further submit that even assuming clause 21 is applicable to the facts of the case, there can be no prohibition for the respondents/plaintiffs to initiate the present Suit which is primarily for ejectment of the applicant/defendant. The present Suit as framed is beyond the scope of clause 21, as clause 21 can only be invoked, when there is a dispute or difference and claims that arise out of the lease agreement. When the lease had been statutorily determined by efflux of time, the plaintiff is entitled for Suit for ejectment, as the defendant failed to vacate and hand over the possession of the suit schedule property. He would heavily rely upon a judgment of the learned Single Judge of this Court in the case of ***Reliance Infratel Limited & Anr., vs. T.Thangamma Mathew*** reported in ***(2022) 7 MLJ 213*** and contend that in a similar circumstances, this Court had held that the suit is maintainable, as both the main agreement and the arbitration clause have become lifeless in view of the statutory termination of lease and that the landlord is entitled for recovery of possession. He would further rely upon the judgment of the Hon'ble Supreme Court in the



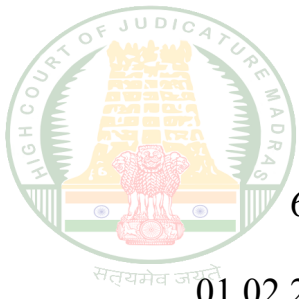
case of ***Raptakos Brett & Co., Ltd., vs. Ganesh Property*** reported in (1998)

7 ***SCC 184***, to contend that when a statutory determination of lease takes place, lessee is bound to put the lessor in the possession of the property and contend that when such statutory determination takes place, the respondent/plaintiffs can maintain the Suit. Therefore, he would contend that the said application filed by the applicant referring to the dispute cannot be entertained and liable to be dismissed.

4. I have heard the rival submissions made by the learned counsels appearing on either side and perused the materials placed on record.

5. The parties to the Suit have entered into a lease agreement which also contained the clause of Arbitration. For better appreciation, the relevant clause is extracted hereunder:-

21. In the event of any dispute, difference and claims if any, between the parties hereto regarding the execution, performance or in the interpretation of any of the conditions or terms in this agreement, the same shall be referred to arbitration by a single arbitrator and such disputes should be settled within thirty days. Such arbitration shall be held in the City of Chennai as per the provisions of the Indian Arbitration Act, 1996 or any statutory modification thereof in force from time to time.



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6.The said lease agreement was entered into between the parties on 01.02.2022 by determining the lease period as two years commencing from 01.02.2022. Section 111(a) of the Transfer of Property Act, 1882 envisages determination of a lease of an immoveable property by efflux time, limited thereby. In the present case, taking into consideration the lease had been entered upon between the parties on 01.02.2022, fixing the lease period of two years, by application of Section 111(a) of the Transfer of Property Act, the lease is determined by efflux of time on 31.01.2024. Section 108(q) envisages the rights and liabilities of the lessee, that when a determination of lease is made then the lessee is bound to put the lessor into possession of the property. The said provisions had been considered by the Hon'ble Apex Court in a judgment in the case of **Raptakos Brett & Co., Ltd.**, (referred supra) relied upon by the learned counsel appearing for the respondent in which the Hon'ble Apex Court had held as follows:-

22. The net effect of this discussion, therefore, is that the plaint as framed by the plaintiff-respondent is based on a composite cause of action consisting of two parts. One part refers to the breach of the covenant on the part of the defendant when it failed to deliver vacant possession to the plaintiff-lessor on the expiry of the lease after 15-3-1985 and thereafter, all throughout,



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and thus it was guilty of breach of Covenants 14 and 17 of the lease. The second part of the cause of action, however, is based on the statutory obligation of the defendant-lessee when it failed to comply with its statutory obligation under Section 108(q) read with Section 111(a) of the Property Act. So far as this second part of the cause of action is concerned, it cannot certainly be said that it is arising out of the erstwhile contract.

The Hon'ble Apex Court in the aforesaid judgment had held that a cause of action for recovery of possession arises out of a statutory obligation and cannot certainly said to be arising out of the contractual obligation. Therefore, in the present case the cause of action had arisen under the statute and not on the lease agreement.

7. Further the learned Single Judge of this Court in the judgment relied upon by the learned counsel appearing for the respondent reported in ***Reliance Infratel Limited & Anr.***, (referred supra) had held as follows:-

22. The one and only legal point which has to be determined by the Civil Court is whether the lease got terminated legally and whether the plaintiff is entitled to get decree for the recovery of possession of the suit property. Since no other dispute, doubt or



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difference surrounding the lease agreement had ever arisen before or during the termination of the lease, the parties need not subject themselves for arbitration. Since the respondent could prove that both the main agreement and the arbitration clause have become lifeless, nothing will prevent the Civil Court to get along with the suit proceedings. Hence, it is right for the learned Trial Judge to dismiss the petition filed by the revision petitioners under Section 8 of the Arbitration and Conciliation Act and it does not warrant any interference.

8.In view of the aforesaid reasonings and findings and the judgments of the Hon'ble Apex Court and the learned Single Judge of this Court, I do not find any merits in the application filed by the applicant and accordingly, the same stands dismissed. However, there shall be no order as to costs.

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K.KUMARESH BABU., J

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Pre-Delivery Order in
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