

V.RAMASUBRAMANIAN, J.

In January 2006, the Airports Authority of India invited tenders for the operation of a snack bar on the ground floor security hold area of the Kamaraj Domestic Terminal of the Chennai Airport. The applicant in the main application participated and bagged the contract. By proceedings dated 29.11.2006, the applicant was awarded license for a period of ten years. A formal agreement was executed on 05.7.2007. The period of validity of the license was from 19.12.2006 to 18.12.2016.

2. However, disputes arose between the applicant and the respondent, leading to a notice of termination of license being issued by the Airports Authority of India on 10.4.2014. Challenging the said notice, the applicant in the main application filed a writ petition on the file of the High Court of Delhi under Article 226 of the Constitution. It was originally entertained and an interim order was passed on 01.10.2014.

3. However, the writ petition was dismissed finally on 18.5.2015, after recording a finding that the dispute between the parties is commercial in nature and that there was also an arbitration agreement.

4. Taking cue from the observation contained in the order of the Delhi High Court, the applicant appears to have filed an application under Section

11 before the Delhi High Court. But, it was pointed out by the learned Judge that the seat of arbitration was Chennai and the jurisdiction was with this Court.

5. Therefore, the licensee came up with the main application in O.A.No.546 of 2015 seeking an interim order of injunction restraining the Airports Authority of India from interfering with their peaceful operation of the snack bar, pending arbitration. On 21.5.2015, this Court granted an ex parte order of interim injunction for a period of three weeks, while ordering notice.

6. Thereafter, the applicant also filed two more applications in A.Nos.3471 and 3472 of 2015 contending that the identity cards of its employees had been seized by the respondent and that the electricity service also got disconnected in utter violation of the interim injunction passed by this Court. By the time these two applications in A.Nos.3471 and 3472 of 2015 came up for hearing, the Airports Authority of India came up with an application in A.No.3486 of 2015 praying for vacating the order of injunction in substance. Therefore, all the applications were taken up together for hearing.

7. Heard Mr.J.K.Mittal, learned counsel for the original applicant and Mr.P.R.Raman, learned counsel for the respondent.

8. It is an admitted fact that the license as well as the formal agreement contained an arbitration agreement. It is also admitted that the seat of arbitration is fixed at Chennai.

9. However, the applicant chose to approach the Delhi High Court by way of a writ petition in W.P.(Civil) No.6732 of 2014 challenging the notice of termination of license dated 10.4.2014. The Delhi High Court also entertained the writ petition in the first instance and granted an interim order of protection on 01.10.2014.

10. But, by a final order dated 18.5.2015, the Delhi High Court examined the matter not merely on the question of jurisdiction, but also on merits with reference to the provisions of the Indian Easements Act, 1882 and held that in cases of revocation of license of this nature, an injunction cannot be granted. In paragraph 25 of its order, the Delhi High Court indicated that the petitioner will be entitled to avail all contractual remedies to claim damages if otherwise entitled in law. Therefore, having allowed the said order to attain finality, the applicant is not entitled to an injunction under Section 9. It may be open to the applicant to seek remedies before the Arbitral Tribunal, but the applicant is not entitled to an injunction after having been suffered the said order before the Delhi High Court. Hence, O.A.No.546 of 2015 is liable to be dismissed. Accordingly, it is dismissed. As a

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consequence, A.Nos.3471 and 3472 of 2015 are also dismissed. The application for vacating the injunction in A.No.3486 of 2015 shall stand allowed.

02.6.2015.

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O.A. No.546 of 2015 & A.Nos.
3471, 3472 & 3486 of 2015.