



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2016

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P (MD) No.21792 of 2016

and

W.M.P (MD) Nos.15575 and 15576 of 2016

M/s Allied Trading Company
rep. by Mohammed Rafeeq,
Having Registered Office at
NAVIN HOUSE, II Floor,
308 (179), Thambu Chetty Street,
Chennai - 600 001.

... Petitioner

Vs.

- 1.The Chairman
VO Chidambaranar Port Trust,
Tuticorin.
- 2.The Chief Mechanical Engineer,
VO Chidambaranar Port Trust,
Tuticorin.

... Respondents

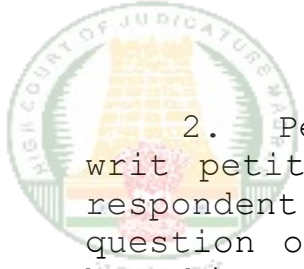
Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order dated 03.10.2016 passed by the second respondent herein vide Ref.No. MEE/SD/AEE/F.Disp.24/2-14/4179, quash the same and direct the Respondents herein to order refund of the money deposited by them, in respect of the undelivered quantity of dredged/Split coal to the tune of 2920.960 MTs.

For Petitioner
For Respondents

: Mr.Haja Mohideen Gisthi
: Mr.V.R.Shanmuganathan

O R D E R

The petitioner is aggrieved against the communication, dated 03.10.2016, issued by the second respondent refusing the claim of the petitioner for refund of the amount in connection with the disposal of the split coal.



2. Perusal of the affidavit filed in support of the above writ petition, as well as counter affidavit filed by the second respondent would certainly indicate that there are disputed question of facts between the parties, which cannot be gone into by this Court, while exercising the discretionary jurisdiction under Article 226 of the Constitution of India. The allegations and counter allegations certainly indicate that they require letting of evidence and appraisal of the same, before arriving at a decision on the claim made by the petitioner.

3. Though the writ petition was filed seeking to quash the impugned proceedings, Mr.Haja Mohideen Gisthi, learned counsel appearing for the petitioner fairly submitted that the petitioner is willing to go for an arbitration, if the respondent Port Trust appointed one such person from the names suggested by the petitioner or of a person of their choice.

4. Mr.V.R.Shanmuganathan, learned counsel appearing for the respondent Port Trust, based on instructions, submitted that the respondents would consider the request of the petitioner for appointing an Arbitrator, so as to resolve the dispute between the parties.

5. Therefore, without expressing any view on the merits of the claim made by the petitioner as well as the contentions raised by the respondent Port Trust, I only direct the respondent Port Trust to appoint an Arbitrator, after getting consent from the petitioner for such appointment and make reference to such Arbitrator for resolving the dispute between the parties. The petitioner shall also be communicated of such appointment so as to enable him to make his claim petition. Such exercise shall be done by the respondent Port Trust, within a period of two weeks from the date of receipt of a copy of this order. On such appointment, the learned Arbitrator shall commence and conclude the Arbitral proceedings within a period of three months thereafter. It is open to both parties to lead evidence before the Arbitrator in respect of their respective claim.

With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1. The Chairman

<https://hcservices.ecourts.gov.in/hcservices/>

VO Chidambaranar Port Trust,
Tuticorin.



2.The Chief Mechanical Engineer,
VO Chidambaranar Port Trust,
Tuticorin.

+2 CC to M/s.S.HAJA MOHIDEEN GISTHI, Advocate, SR No.81244

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