

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P. VELMURUGAN

W.A.No.478 of 2015

D.Mahalingam

.... Appellant

-vs-

1.Union of India

Rep. By Salt Commissioner
Salt Department,
2-A, Lavan Bhavan, Lavan Marg,
Jhalana Doongari,
Jaipur - 302 004 (Rajasthan).

2.The Deputy Salt Commissioner,
Salt Department, Shastri Bhavan
Chennai - 600 006.

.... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order dated 05.12.2012 passed in W.P No.11919 of 2006.

WP.No.11919 of 2006:Petition under Article 226 of the Constitution of India praying for issue of a writ of certiorari to call for the record of the Respondents herein in the impugned order of Cancellation of Licence of the Petitioner by the 2nd Respondent in C.No. 37 (16)P/86/ Vol. II/9260-63 dt. 13.5.99 and of the Appellate order of the 1st Respondent herein in his Order No.1(2)P/99/5557 dt. 1.8.2005 pertaining to the petitioners leasehold Salt land admeasuring 231.96 acres in Athipattu South Salt Factory in Athipattu Village Ponneri Taluk now Tiruvallore District quash both the impugned orders as illegal and arbitrary in nature.

For Appellant : Mr.Ramana Reddy

For Respondent : Mr.G.Rajagopalan
Addl.Solicitor General of India
Asst.by Mr.Venkatasamy Babu

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN,J.]

The lease of 231.96 acres of land for salt manufacture granted to the appellant by the Deputy Salt Commissioner,

Chennai, by order dated 22 October 1986 was cancelled by order dated 13 May 1999. The said order was unsuccessfully challenged by the appellant before the Writ Court in W.P.No.11919 of 2006. Feeling aggrieved, the appellant is before this Court.

2. We have heard the learned counsel for the appellant. We have also heard the learned Additional Solicitor General on behalf of the respondents.

3. There is no dispute that an extent of 231.96 acres of land belonging to the Salt Department in R.S.No.354/part, Athipattu Village, Ponneri Taluk was given on lease to the appellant and Thiru.D.Rajamanickam jointly, as per lease deed dated 22 October 1986. The licensee failed to observe the conditions of lease and defaulted in payment of the lease rent. The lease was therefore terminated in August 1992. In view of the request made by the appellant, the order of termination was revoked on 15 January 1993. Even thereafter, action was not taken by the appellant for manufacturing salt. The land was kept fallow. The first respondent therefore issued a show cause notice on 3 August 1994. Even thereafter, there was no action either to commence the manufacturing of salt or to pay the lease rent. Finally, the lease was terminated. The appellant filed a civil suit in O.S.No.257 of 1999 before the District Munsif, Ponneri challenging the order of termination dated 13 May 1999. The suit was decreed. The appeal filed by the Salt department in A.S.No.11 of 2001 before the Sub-Court, Ponneri was allowed. The appellate decree was confirmed by the High Court in S.A.No.1254 of 2002. Thereafter only, the appellant filed the writ petition.

4. The order cancelling the lease was challenged before the Civil Court. The decree granted by the Court of first instance was reversed by the first appellate court. It was upheld by the High Court. The appellant wanted the very same order to be tested by the High Court by exercising the jurisdiction under Article 226 of the Constitution of India. The matter is in the realm of contract. The Salt Commissioner in exercise of the power conferred on him under Clause 22 of the Lease Agreement terminated the lease. There is no question of invoking the writ jurisdiction in a matter which is in the realm of contract. The learned Judge was therefore correct in dismissing the writ petition. We do not find any reason to take a different view in the matter.

5. In the up shot, we dismiss the intra court appeal. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

To

1.The Salt Commissioner
Union of India, Salt Department,
2-A, Lavan Bhavan, Lavan Marg,
Jhalana Doongari,
Jaipur - 302 004 (Rajasthan).

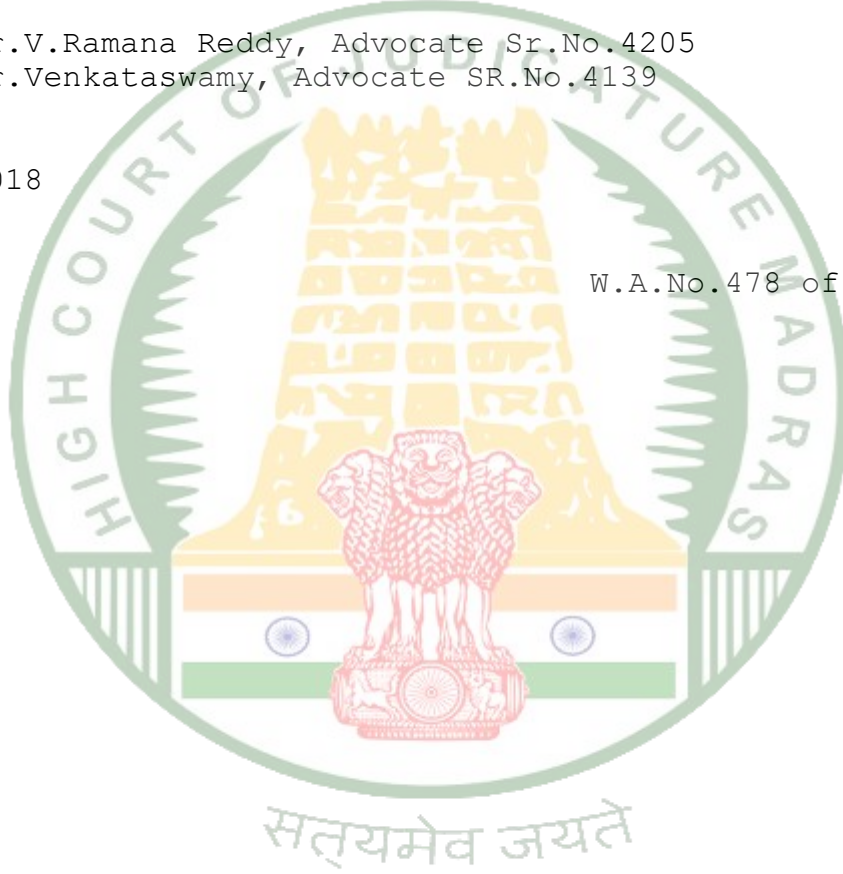
2.The Deputy Salt Commissioner,
Salt Department, Shastri Bhavan
Chennai - 600 006.

+1cc to Mr.V.Ramana Reddy, Advocate Sr.No.4205

+1cc to Mr.Venkataswamy, Advocate SR.No.4139

PA(CO)
sm:23.2.2018

W.A.No.478 of 2015



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