



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A(MD)No.971 of 2014

and

C.M.P(MD)No.5039 of 2018 and M.P(MD)No.2 of 2014

M/s.Chemplast Sanmar Limited,
a company registered under
Companies Act, 1956 and having
its Registered Office at
9, Cathedral Road, Chennai-600 086,
Represented by its Authorised Signatory .. Appellant/Petitioner

Vs.

1.Chairman,
VOC Port Trust,
Thoothukudi- 628 004.

2.Estate Officer,
Engineering Department (Civil),
VOC Port Trust,
Thoothukudi- 628 004.

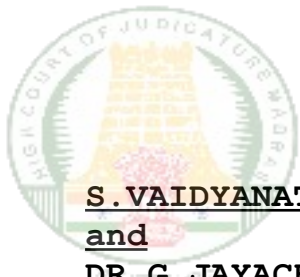
.. Respondents/Respondents

PRAYER:- Appeal filed under Section 37(1)(a) of the Arbitration and Conciliation Act, 1996, to set aside the order, dated 01.09.2014 made under Arbitration OP.No.Unnumbered of 2014 on the file of the learned Principal District Judge, Thoothukudi.

For Appellant : Mr.T.Ravichandran
for Mr.K.Govindarajan

For R1 : Mr.VR.Shanmuganathan

For R2 : Mr.A.Arivuchandran

**JUDGMENT****S.VAIDYANATHAN, J.****and****DR.G.JAYACHANDRAN, J.**

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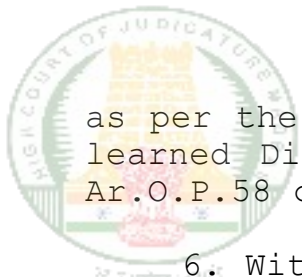
This civil miscellaneous appeal is filed by M/s.Chemplast Sanmar Limited against the Chairman of VOC Port Trust, Thoothukudi, being aggrieved by the order of the learned District Judge, Thoothukudi, who declined to entertain Section 9 application in respect of breach of lease agreement carrying an arbitration clause.

2.The appellant herein, before invoking the arbitration clause, had approached the District Court for an interim protection under Section 9 of the Arbitration and Conciliation Act, 1996, which was declined by the District Court. Aggrieved by that, this appeal is filed before this Court and an interim order was passed directing the respondent Port Trust to deposit the disputed amount in an escrow account. While fact being so, the parties have approached the Principal seat of High Court under Section 11(6) of the Arbitration and Conciliation Act, 1996, and the Hon'ble Justice Mr.K.Venkataraman appointed as arbitrator. After enquiry, he has passed an award and the said award is now the subject matter of Arbitration O.P.58 of 2017 on the file of the District Judge, Thoothukudi.

3. Since the purpose of the application under Section 9 was filed by the appellant herein has been served, this appeal has become infructuous. However, pursuant to the interim order passed by this Court, a sum of Rs.1,68,29,172/- (Rupees One crore sixty eight lakhs twenty nine thousand one hundred and seventy two only) lying in the escrow account of C.M.A.(MD).No.971 of 2014 in the Indian Overseas Bank, Thoothukudi. Therefore, the learned counsel for the appellant wants to withdraw the amount on furnishing bank guarantee since the amount deposited does not earn any interest.

4. The learned counsel for the respondent Port Trust would submit that since the award of the arbitrator is under challenge, though there is no interim order of stay of the award, but to protect the interest of the parties, the amount may continue to be in the escrow account till the disposal of the Arbitration O.P.58 of 2017 pending on the file of the learned District Judge, Thoothukudi.

5. On considering the rival submissions, in order to protect the interest of the parties concerned, this Court is of the view that the order passed by this Court, dated 11.09.2014 shall be modified and the amount, which is now in escrow account at Indian Overseas Bank, Thoothukudi can be converted in to FD to the credit of the Arbitration O.P.58 of 2017 for a period of six months and renewable periodically, if necessary, and it will be disbursed later



as per the outcome of the Arbitration O.P.58 of 2017. Meanwhile the learned District Judge, Thoothukudi is directed to dispose of the Ar.O.P.58 of 2017 as expeditiously as possible.

6. With the above direction, this Civil Miscellaneous Appeal is closed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Principal District Judge,
Thoothukudi.

+1 CC to M/s.A.ARIVUCHANDRAN, Advocate (SR-35739
[F] dated 24/11/2021)

+1 CC to M/s.K. GOVINDARAJAN, Advocate (SR-35955
[F] dated 25/11/2021)

**C.M.A(MD) .No. 971 of 2014
24.11.2021**

KM(CO)
TR(05.01.2022) 3P 4C