



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.11130 of 2021

and

W.M.P.Nos.11772, 11778 & 11773

S.Mani

.. Petitioner

Vs.

1.Union of India

Represented by the Deputy Secretary to the Government,
Ministry of Industry and Commerce,
Department of Industrial Policy and Promotion (Salt Section)
Udhyog Bhavan, New Delhi.

2.The Salt Commissioner,

Government of India,
2-A Lavan Marg. Lavan Bhavan,
Jhalana Doongri, Jaipur – 302 004.

3.The Deputy Salt Commissioner,

Government of India,
26 Haddows Road Shastri Bhavan,
Chennai – 600006.

4.The Factory officer,

Marakkanam Salt Office,
Marakkanam & Post and Taluk,
Villupuram District - 604 303.



5. The State of Tamil Nadu,
Represented by its Secretary,
Revenue Department,
Fort. St. George,
Chennai – 600009.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned orders of the 2nd to 4th respondents for lease related to L.No.18 from 1971 and certificate by 4th respondent dated 30.04.1989 and a letter No.04014/1/2013 salt dated 09.10.2013 issued by the 1st respondent and MAHAZER F.No.11/L.No.18/MKNM/98/754-56 dated 01.10.2018 issued by the 4th respondent and the same as being arbitrary illegal and without authority of law for L.No.18 of salt land and quash the same and consequently direct the 2nd to 4th respondents to pass appropriate order to issue license to manufacture salt in L.No.18 Marakkanam Salt Office in Survey No.11508, an extent of 1.32.5 aces, without lease and also refund the lease amount to the petitioner with interest which collected by 2nd to 4th respondents against law and compensation to the petitioner for stop salt manufacture in the year 1971, 1972, 2018, 2019 and 2020.

For Petitioner

.. Mr.S.Mani, Party-in-Person

For R1 to R4

.. Mr.N.Ramesh,
Central Government Standing Counsel



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For R5

.. Mr.T.Seenivasan,
Special Government Pleader

ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking the records of an order of the 2nd to 4th respondents relating to the lease for L.No.18, which actually is a land at Marakkanam, where salt is manufactured.

2.Let me not scrutinize the relief sought in detail, since the petition has been filed by a party-in-person and naturally, some leverage should be given to phraseology of the reliefs may not be in consonance with the reliefs which the party-in-person actually seeks before this Court.

3.The facts are simple.

4.One K. Subramaniya Pillai was the beneficiary having two licences to manufacture salt. Those licences were L.Nos.18 and 6 in Marakkanam. The said Subramaniya Pillai had two wives, Dhanalakshmiammal and



Amirthammal. He was exercising rights to manufacture salt even prior to 1925. He died in the year 1925. He executed a Will. Very wisely, he had bequeathed L.No.18 to Dhanalakshmiammal and L.No.6 to Amirthammal. The writ petitioner is concerned with the L.No.18 given to the Dhanalakshmiammal.

5.It is claimed by the petitioner that Dhanalakshmiammal did not have any children and therefore, the licence fell to the hands of her brother Mannathapillai. Thereafter, it went to the son of Mannathapillai namely, Shanmugam. The petitioner is the son of Shanmugam.

6.The petitioner claims that Dhanalakshmi died in the year 1971 and thereafter, as the brother's grandson, he had the privilege of operating or manufacturing salt in L.No.18 and he has been doing salt manufacturing from the year 1972. Originally, the lease, according to him was for a period of 8 years, but an examination of the document shows that there was a registered lease from the year 1978 to 1998 and yet another registered document from 1998 to 2018, more specifically till 30.09.2018. The lease period expired on 30.09.2018. It was not extended. That is the cause of



grievance of the petitioner herein. The respondents had taken possession of the lands covered under L.No.18 on 01.10.2018.

7.The petitioner also has another grievance. According to him, L.No.6 which fell to the benefit of Amirthammal has not been interfered with by the respondents and the lease still subsists in favour of her legal heirs.

8.A perusal of the lease deed shows that, an arbitration clause therein can be invoked, if there are disputes arising out of the terms of the lease deed. The clause is as follows:

“23.In the event of any question, dispute or difference arising in respect of or in connection with this indenture (except as to any matters, the decision of which is specially provided for by these presents) the same shall be referred to the sole arbitration of the Salt Commissioner to the Government of India or of some other person appointed by him. It will be no objection that the arbitrator is a Government servant, that he has to deal with matters to which these presents relate to that in the course of his duties as a



Government servant, he has expressed views on all or any of the matters in dispute or difference. The award of the arbitrator shall be final and binding on the parties to this indenture. It is a term of this clause that no person other than the Salt Commissioner Government of India or the person appointed by him should act as arbitrator and that, if for any reason, that is not possible, the matter shall not to be referred to arbitration at all. The arbitrator may, with the consent of the parties, enlarge the time from time to time for making and publishing the award. Subject as aforesaid, the Arbitration Act, 1940 and the rules there under and any statutory modification thereof for the time being in force shall be deemed to apply to the arbitration proceedings under this clause.”

9.The Party-in-Person who is present in Court has been informed about this particular arbitration clause. It would only be advisable that he takes recourse to such arbitration clause to address the disputes he has raised.

10.The issue of arbitrability of the dispute will naturally arise. The Hon'ble Supreme Court had settled that particular issue in the judgment



reported in **2021 2 SCC 1, *Vidya Drolia V. Durga Trading Corporation***,

wherein a reference was made to three Judges of the Hon'ble Supreme Court about arbitrability of a dispute. The Hon'ble Supreme Court held that the issue of arbitrability of a dispute will have to be examined only by the arbitral tribunal and the Court should not enter into a discussion on the same.

11. Another issue which has to be addressed is the delay in seeking to constitute the arbitral tribunal. The lands were taken away on 01.10.2018. The writ petition came to be filed before this Court on 13.02.2020. It is thus seen that within a period of 13 months the writ petition has been filed. Filing of the writ petition itself shows that the petitioner is anxious to seek reliefs. He had approached a wrong forum. I would not hold it against him.

12. A liberty is given to the petitioner to take necessary recourse to seek constitution of an arbitral tribunal in accordance with the agreement, which he himself had signed and according to which, if there are disputes, the parties should be referred to arbitration.



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13.Mr.N.Ramesh, learned Central Government Standing Counsel, however, pointed out that a similar issue had been examined in a batch of matters in ***W.P.No.34859 of 2021 and batch***, dated ***22.12.2021***, by a learned Single Judge in ***The Salt Manufactures and Merchants Association, Tuticorin Rep. by its president V. Union of India Rep.by the Deputy Secretary to the Government, Ministry of Industrial & Commerce Dept. of Industrial Policy & Promotion (Salt Section), Udhyog Bhavan and others.***

14.It is stated that the learned Single Judge after detailed examination of similar issues about extension of lease held that there is no existing right to seek extension of rights.

15.The clause relating to settlement of disputes through arbitration had not been pointed out to the learned Single Judge and had also not been addressed in the order.

16.Here, the lease deed is clear. The terms are clear. The terms are simple. The terms state that, if there is a dispute, the parties should invoke the arbitration clause and refer the dispute to arbitration. The petitioner is granted that particular liberty.



17. Let the petitioner invoke that particular clause and seek the matter to be referred to arbitration with respect to all issues including the issue of compensation either by the respondents against the petitioner or by the petitioner against the respondents. Non-payment of lease amount can be examined by the arbitral tribunal. The petitioner should invoke the arbitration clause on or before 10.03.2023. If it is done so, I would place an obligation on the arbitral tribunal not to put the issue of limitation or delay in approaching the arbitral tribunal and proceed to hear the matter on merits.

18. It is also stated that there is a Civil Suit which is pending, but I am sure that the petitioner will be able to wriggle his way through the Civil Court and also before the arbitral tribunal. I would leave that decision to the wisdom of the petitioner.

19. With the above observations, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

15.02.2023

Index: Yes/No
Internet: Yes/No
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C.V.KARTHIKEYAN,J.

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