



W.P.No.20075 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2023

CORAM: JUSTICE N.SESHASAYEE

WP.No.20075 of 2021
and W.M.P.No.21332 of 2021

M/s.Mantralaya Mahan Ads,
Rep. by its Proprietor
Mr.G.Ramasubramanian
S/o.Mr.A.Gopalan,
Having office at
No.298, 2nd Street,
Gandhipuram,
Coimbatore-641 012.

...Petitioner

-Vs-

1.The Secretary
Tamil Nadu State Transport Corporation,
Secretariat,
Chennai-600 009.

2.The Managing Director,
Tamil Nadu State Transport Corporation (CBE) Ltd.,
No.37, Mettupalayam Road,
Coimbatore - 641 043.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records of the impugned order dated 28.08.2021 in Paarvai



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No.4946/A1/TM/Kat/TNSTC/Coimbatore/2021 passed by the second respondent. Consequently, direct the second respondent to refund of Rs.34,17,267.96/- along with future interest at the rate of 18% per month.

For Petitioner : Mr.B.Manimaran

For Respondents : Mr.Sundaravadanam
for R2

No Appearance for R1

ORDER

The petitioner herein is an advertising agency that entered into a contract dated 13.04.2019 with the second respondent to fix advertisement boards on the rear side of the buses of the second respondent for a combined total period of three years and the contract was renewed annually. According to the petitioner, due to the Covid conditions in 2020 and 2021, for most part of the year, no buses were in operation. Hence, the petitioner wants a proportionate refund of the security deposit it has paid.

2.Learned counsel for the second respondent brought to the notice of the Court that in terms of Clause 20 of the license agreement, the dispute raised is an arbitral dispute. Therefore, the petitioner may have to



approach the arbitrator for remedy.

3.1 Per contra, the learned counsel for the petitioner brought to the notice of the Court that Clause 15 of the agreement which reads as below:

"15.CANCELLATION OF PERMISSION:

1.The TNSC shall not be responsible for any discontinuance of Advertisement on the buses under this deed caused under instructions of the State and Central Government or due to the policy decision taken by the Board of Directors of the TNSC, or by introduction of any new Statutory provisions. In the event of such discontinuation, the TNSC shall arrange to refund the Security Deposit by the Licensee within 30 days from the notice of such cancellation after deducting any dues payable to the TNSC by the Licensee and on prorata basis of usage period of the bus panel for Advertisement."

3.2 The learned counsel submitted that in all circumstances where the petitioner is directed to discontinue the advertisement owing to certain policy decisions of the corporation, the petitioner would be paid refund of the security deposit by the corporation within a period of 30 days.



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4.The scenario described here is slightly different from what is contemplated under Clause 15 of the agreement. There has been no policy decision made by either the Government or the Corporation to discontinue the advertisement, as contemplated under Clause 15. However, due to the Covid situation, the advertisement that was created has become unprofitable. This situation is similar to the frustration of a contract, where the purpose of the contract cannot be fulfilled owing to vis majeure event. Therefore, this situation has to be brought within Clause 15.

5.Learned counsel for the second respondent would submit that the Corporation is willing to expand the license period to compensate two years which the petitioner has lost owing to the Covid conditions.

6.Heard Mr.B.Manimaran, the learned counsel for the petitioner and Mr.Sundaravadanam, the learned counsel for the second respondent.



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7.Now, without getting into the merit of the claim, but at the same time, underscoring the significance of Clause 15 of the agreement, this Court merely directs the petitioner to hold appropriate negotiation with the Corporation.

8.The Writ Petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

11.08.2023

Index : Yes/No
Internet : Yes/No
Anu



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N.SESHASAYEE, J.,

Anu

To

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