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C.R.P.(MD)No.1153 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD)No.1153 of 2022

and

C.M.P.(MD)No.4722 of 2022

Er.A.Samuel Ebenezer Jebarajan,
S/o.A.Appasamy,
Chief Engineer, (H), Metro,

.. Petitioner

Versus

1.R.S.Jeevanantham

2.The Secretary,
Principal Secretary to Government,
Highways & Minor Ports Department,
Fort St. George, Secretariat,
Chennai – 600 009.

.. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India, against the order dated 11.03.2022, made in O.S.No.55 of 2014, on the file of the Additional District Court, Srivilliputhur.

For Petitioner : Mr.H.Hemakarthiskeyan

For R1 : Ms.S.Vijayashanthi

For R2 : Mr.G.Sivaraja
Government Advocate

ORDER

This Civil Revision Petition has been filed against the order dated 11.03.2022,

in O.S.No.55 of 2014, on the file of the Additional District Court, Srivilliputhur.

<https://www.mhc.tn.gov.in/judis>



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2. The petitioner is the second defendant in O.S.No.55 of 2014, pending on the file of the Additional District Court, Srivilliputhur. The said suit has been filed by the first respondent against the petitioner and the second respondent herein, wherein the relief is confined to damages to be paid to the first respondent by the petitioner for purportedly terminating the contract that was awarded to the first respondent.

3. During the pendency of the above suit, Commercial Courts Act, 2015 came into force, as a result of which, Commercial Courts in Commercial Divisions came to be constituted pursuant to the Notification issued by the High Court.

4. By a docket order, the case was transferred to the Principal District Court at Srivilliputhur. It is submitted that there is no commercial dispute within the meaning of Section 2(1)(c)(vi) of the Commercial Courts Act, 2015 and therefore, the case has been wrongly transferred to the Principal District Court at Srivilliputhur.

5. In support of his submission, the learned counsel for the petitioner relied on a decision of the Kerala High Court in **C.K.Surendran Vs. Kunhimoosa** [C.R.P.No. 146 of 2021, dated 17.09.2021], wherein it has been held that only the High Court has power to transfer cases.



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6. The learned counsel for the petitioner, however, fairly submits that pursuant to the alteration in the pecuniary jurisdiction, the case has to be transferred back to the Court of competent jurisdiction, as the jurisdiction of the District Court has been increased.

7. I have considered the arguments advanced by the respective learned counsels appearing for the parties and perused the material available on record.

8. *Prima facie*, it appears that the suit that has been filed by the first respondent against the second respondent and the petitioner herein pertains to a commercial dispute, as it flows cancellation of contract that was awarded to the first respondent by the second respondent and that the petitioner as an Officer of the second respondent, had terminated the contract awarded to the first respondent. Therefore, the objection that there is no commercial dispute in the suit cannot be countenanced.

9. In any event, it is for the Court concerned to re-examine the issue in the light of the definition of Section 2(1)(c) of the Commercial Courts Act, 2015, which defines the expression "commercial dispute". As per Section 15(2) of the Commercial Courts Act, 2015, all suits and applications, including applications



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under the Arbitration and Conciliation Act, 1996 (26 of 1996), relating to a commercial dispute of a Specified Value pending in any Civil Court in any District or area in respect of which a Commercial Court has been constituted, shall be transferred to such Commercial Court.

10. In view of the above, there is no merit in the present Civil Revision Petition. Hence, the Civil Revision Petition is liable to be dismissed. Accordingly, it is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
smn2

05.04.2023

To

- 1.The Additional District Judge,
Srivilliputhur.
- 2.The Principal Secretary to Government,
Highways & Minor Ports Department,
Fort St. George, Secretariat,
Chennai – 600 009.



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C.SARAVANAN, J.

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Order made in
C.R.P.(MD)No.1153 of 2022

05.04.2023