



CRP.(MD)No.3004 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CRP.(MD)No.3004 of 2023

M/s.John Constructions Engineers and Builders,
through its Proprietor,
Mr.J.Jebamani,
1G, Anna Nagar,
5th Street, VVD Main Road,
Thoothukudi-628008.

... Petitioner

Vs.

1.Managing Director,
Tamil Nadu Salt Corporation Limited,
Chennai.

2.Tamil Nadu Salt Corporation Limited,
through its Project Manager,
Valinokkam.

3.The District Collector,
Ramanathapuram District.

... Respondents

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Principal District Judge,



CRP.(MD)No.3004 of 2023

Ramanathapuram to number the unnumbered O.S.No. 2023, which was returned on 06.10.2023 and to decide the same on merits in accordance with law.

For Petitioner : Mr.R.Ponkarthikeyan

ORDER

This civil revision petition has been filed to direct the Principal District Judge, Ramanathapuram to number the unnumbered O.S.No. 2023, which was returned on 06.10.2023 and to decide the same on merits in accordance with law.

2.The learned counsel appearing for the petitioner would submit that Principal District Judge, Ramanathapuram has returned the plaint for the reason that the condition clause of the agreement between the parties specifically mentioned in Doc.No.1, clause No.29 that the dispute arises between them have to be placed before the Arbitrator and as such, how the suit maintainable and that, the learned counsel appearing for the petitioner/plaintiff has re-presented the plaint by stating that there is no prohibition for a party to file a civil suit merely because there is an



CRP.(MD)No.3004 of 2023

WEB COPY

arbitration clause in the agreement between the parties. But the learned Principal District Judge, Ramanathapuram has again returned the plaint by stating that previous direction not complied. Section 8 of the Arbitration and Conciliation Act contemplates that if a party to the arbitration agreement or any person claiming through or under him, so applies not later than the date of submitting his first statement on the substances of the dispute to refer the parties to arbitration unless it finds that prima facie no valid arbitration agreement exists.

3.The learned counsel appearing for the petitioner relied upon the judgement of this Court in a case of M/s.Convivio Shopping Nine 2 Nine Vs. M/s.Olympia Opaline Owners Association reported in 2019 2 CTC 854 wherein a learned Judge of this Court in a similar case has directed the trial Court to take the suit on file.

4.The learned counsel appearing for the petitioner would further submit that the arbitration clause provides for referring the matter to arbitration, if any dispute, which may arise during the execution of contract and not for payment of the amount.



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CRP.(MD)No.3004 of 2023

K.MURALI SHANKAR,J.

gns

5.Considering the specific provision under Section 8 of the Arbitration and Conciliation Act and the decision above referred, the impugned return is not proper and not in accordance with law and as such, the same is liable to be set aside. Hence, the learned Principal District Judge, Ramanathapuram is hereby directed to take the plaint on file, if it is otherwise in order and proceed in accordance with law.

20.11.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
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Note: Registry is directed to return the original papers to the learned counsel appearing for the petitioner, after getting necessary acknowledgment.

To
The Principal District Judge,
Ramanathapuram

CRP.(MD)No.3004 of 2023