O.A.Nos.766 & 767 of 2024
and Arb.Appln.Nos.702 to 704 of 2024
and Arb.Appln.No.724 of 2024

G.K.ILANTHIRAIYAN, J.

The Application Nos.702 to 704 have been filed for these reliefs:

(i) To pass an order of Interim direction, directing the first respondent to provide details of work orders/supplies executed as well as pending with third respondent as originally assigned by fourth respondent to third respondent pending disposal of the Arbitral dispute.

(ii) To pass an order of interim direction, directing the first respondent to operate all their bank accounts only with joint signature of the nominee/authorised representative of the applicant in terms of Clause 3 of the Supplementary Agreement dated 13.10.2023, pending disposal of the Arbitral dispute.

(iii) To pass an order of interim direction, directing the first respondent to provide authenticated statements and details of entry wise receipts and entry wise payments made along with the purpose for the same for the consideration and record of the Applicant pending disposal of the Arbitral dispute.

2. The case of the applicant:

The first respondent is a company engaged in procuring paddy from farmers and converting into rice for further distribution/sale/deposit under the Government Scheme. In order to carry out their business and activities, borrowed loan from the applicant to the tune of Rs.5 Crore. Accordingly, they had entered into loan agreement dated 02.07.2018. As per the loan agreement, the first respondent has to pay the entire loan at the rate of 12% interest per annum, within a period of 45 days. Further, the first respondent should not transfer the existing shares without express consent of the applicant.

3. However, the first respondent could not repay the said loan as agreed by them and approached the applicant for further financial assistance. The applicant further had lend loan on various dates in total to the tune of Rs.15.70 crores. Accordingly, the supplementary agreement was also executed dated 13.10.2023. As per the supplementary agreement, both the parties agreed that the applicant would have its representative as a nominee to operate the first respondent's bank account jointly with the nominee of the first respondent and the said nominee of the applicant would also sign the cheques along with the

representative of the first respondent. Further, the first respondent agreed to share the goodwill of the first respondent with that of the applicant. Accordingly, the applicant shall be entitled at 50% of the determined goodwill value within 120 days of the valuation. Thereof, the applicant had nominated its representative along with the nominee of the first respondent to open and operate the bank account which is lying with the second respondent in Account No.50200048156436. One Jaganathan was appointed as the applicant's nominee and the first respondent's nominee, its Director Mr.Amurudheen were jointly operating the bank accounts. This terms have been continued until the other terms of the agreement satisfied and fulfilled.

4. While being so, the first respondent removed the authorised signatory of the applicant and violated the terms of the supplementary agreement dated 13.10.2023. After removing the authorised signatory of the applicant, the first respondent had transacted to the tune of Rs.63 crores with the second respondent bank. It is a clear breach of terms of the contract. Further, the valuation of goodwill is solely based on the financial transaction and the volumes of business of the first respondent. Therefore, the applicant had written a letter dated 08.10.2024 to the first respondent. However, there was no response. The

agreement contains the clause of arbitration to resolve the disputes arising between them. The clause 9 of the Supplementary loan agreement dated 13.10.2023 is extracted hereunder:

> "***9. Dispute resolution:***
>
> *Any Dispute arising out of, or in connection with, this Agreement a shall (regardless of the nature of the Dispute) be finally settled in accordance with the Arbitration and Conciliation Act, 1996 as amended, through a sole arbitrator to be mutually appointed by the Parties. The place of arbitration shall be Chennai, Tamil Nadu. The Language of Arbitrarion is English."*

Therefore, the applicant filed these applications.

5. This Court granted interim injunction by its order dated 17.10.2024 in O.A.No.766 of 2024, thereby restraining the first respondent from operating the bank Account No. 50200048156436 lying with the second respondent as well as any other bank accounts in the name of the first respondent without the joint signature of the applicant's nominee.

6. Pending disposal of the arbitration disputes, the first respondent filed an

application in A.No.724 of 2024 to vacate the interim injunction granted by this Court.

7. As per the guidelines issued in the Memorandum of Understanding by the Government of India, the first respondent has to procure paddy from farmers directly in the Non-Delta regions and make online payment to the individual farmers directly and ensure that monetary benefits provided by the State and the Central Government reach farmers without intervention of the intermediaries.

8. Therefore, the first respondent approached the applicant for financial assistance and availed to the tune of Rs.5 crores and the loan agreement dated 02.07.2018. Accordingly, the first respondent agreed to repay the said amount with interest at the rate of 12% per annum. The first respondent also availed further financial assistance from the applicant and entered into supplementary loan agreement dated 13.10.2023 and in total borrowed a sum of Rs.15,17,00,000/-. As per the terms and conditions, the applicant shall be entitled to receive the 50% of the determined goodwill value within 120 days of such valuation in addition to interest of 12% per annum.

9. Accordingly, the applicant nominated its nominee Mr.Jeevanantham as joint signatory to operate all the bank accounts of the first respondent. Further, he was causing unnecessary delay in presenting the cheques. That apart, they have repaid the entire loan amount and made excess payment of Rs.30 crores. Therefore, they removed the nominee of the applicant from its position as joint signatory. This fact is disputed by the applicant.

10. While pending these applications, the applicant issued notice under Section 21 of the Arbitration and Conciliation Act, 1996 dated 24.10.2024 in order to invoke the arbitration clause No.9 of the supplementary loan agreement dated 13.10.2023 and suggested names to act as a sole arbitrator to agitate the difference and disputes between the applicant and the first respondent. Though this Court restrained the first respondent from operating its bank account without co-signatory of the applicant's nominee, the nominee of the applicant is not permitted to operate the account of the first respondent. Because of this dispute, now the farmers from whom the first respondent procure paddy are affected by non-payment of the cost of the paddy.

11. As per the terms and condition of Memorandum of Understanding between the Tamil Nadu Civil Supplies Corporation (TNCSC) and National Co-operative Consumers Federation of India Limited (NCCF) for procurement of paddy and delivery of custom milled rice fortified rice from the Non-Delta region of Tamil Nadu, the paddy procurement should be through the first respondent at Minimum Support Price. Further, the payments to the farmers for Minimum Support Price and incentive has to be made within 48 hours from the date of purchase of paddy. Due to dispute between the applicant and the first respondent, the payments are not paid to the farmers. Now, it is a peak season to procure more paddy from the farmers and as such, the first respondent ought to have settle the payment within 48 hours.

12. Considering the above facts and circumstances, till the disputes resolve between the first respondent and the applicant it would be appropriate to appoint the third party who is being the Retired District Judge from the Tamil Nadu Judiciary as authorized signatory to operate the first respondent's account in order to make payments to the farmers within the stipulated time. Accordingly, Mr.R.V.R.Deenadayalan, District Judge (Retd.,) residing at 12/J-74, Karikalan Street, Pari Nagar, Jafferkhanpet, Chennai – 600 083 is appointed as authorized

signatory to operate the first respondent's account bearing account No. 50200048156436 lying with the second respondent and also authorized to make payment through RTGS or any other mode to the farmers.

13.(i) The authorised signatory is directed to make payment to the farmers on verification of purchase of paddy, identification of the farmers.

(ii) If ny payment to be made through RTGS, the authorised signatory is directed to authorise the first respondent to make the payment through RTGS directly to the farmers on verification of purchase of paddy and the identification of farmers.

(iii) The authorized signatory is directed to submit the payment details and other transactions of the account to the Arbitrator at the time of commencement of arbitration.

(iv) The tenure of the authorised signatory is continued till the commencement of arbitral proceeding. The first respondent shall pay a sum of Rs.1,00,000/- per month as remuneration to the authorised signatory.

(v) It is made clear that in so far as other payments are concerned such as transportation, contractors if any and salary to the first respondent employees and miscellaneous expenses, the first respondent is permitted to operate the account.

14. In view of the above, the applicant and the first respondent agreed to appoint the arbitrator and agreed to appoint the nominees, suggested by the applicant, this Court is appointing Mr.G.M.Akbar Ali, Retired Judge of this Court as Arbitrator. The sole Arbitrator is directed to enter upon reference and adjudicate the dispute in accordance with law. It is open to the Sole Arbitrator to fix his fees and expenses in relation to the arbitral proceedings.

15. Accordingly, all the applications are disposed of.

24.10.2024

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G.K.ILANTHIRAIYAN, J.

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