

A. Jana Vs. The Managing Director, Tamilnadu Tourism Development Corporation Ltd., Chennai and Others

A. Jana Vs. The Managing Director, Tamilnadu Tourism Development Corporation Ltd., Chennai and Others

SooperKanoon Citation : sooperkanoon.com/1186375

Court : Chennai Madurai

Decided On : Dec-19-2016

Judge : K. Ravichandrabaabu

Appeal No. : W.P(MD)No. 22321 of 2016 & W.M.P(MD)No. 15995 of 2016

Appellant : A. Jana

Respondent : The Managing Director, Tamilnadu Tourism Development Corporation Ltd., Chennai and Others

Judgement :

(Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to call for the records on the file of the 1st respondent pertaining to its order bearing letter No.1214/H3/2015 dated 15.11.2016 and to quash the same and consequently to direct the respondent to remove the seal put up at the Toilet Blocks at the 3rd Respondent premises and permit the petitioner to continue the lease as per the agreement, dated 21.10.2015.)

1. This Writ Petition is filed challenging the order of the first respondent, dated 15.11.2016 terminating the contract with the Petitioner in respect of maintaining the toilet at the third respondent/premises.

2. Heard the learned Senior Counsel appearing for the Petitioner and the learned counsels appearing for the respondents and perused the materials placed before this Court.

3. Though the learned Senior Counsel vehemently contended that the impugned order of termination cannot be sustained on the reason that the same came to be passed with vague allegations, this Court is not inclined to go into the merits of the contentions of the rival parties for the only reason that the agreement between the parties contains a clause for arbitration stipulating that in case of any dispute, the franchiser has to refer the dispute to an arbitrator in accordance with the provisions for the Arbitration and Conciliation Act, 1996 and that the parties agreed to abide by the decision of the Arbitrator. It is also stated therein that the place of Arbitrator shall be at Chennai. This Court has already taken a view in several decisions that invoking the jurisdiction of this Court under Article 226 of the Constitution of India for redressal of the grievance of the parties cannot be entertained, if the agreement between them contains the arbitration clause.

4. Therefore without expressing any view on the merits of the contentions raised by both the parties, this Writ Petition is disposed of, only with a direction to the respondents to initiate an arbitration proceedings as contemplated under Clause 27 of the agreement within a period of three weeks from the date of receipt of a copy of this order. If any arbitrator is so appointed, such arbitral proceedings shall be concluded within a period of six weeks from the date of commencement of such arbitration. Since the nature of work allotted to the petitioner relates to maintaining the toilet, the respondents cannot close the toilet without putting it for public use. Accordingly, it is made clear that the respondents, while referring the matter to the arbitration, shall also ensure that the toilets are properly maintained and put into use for the public. Consequently, connected Miscellaneous Petition is closed. No costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com