

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 29.3.2005

Coram

THE HONOURABLE MR. MARKANDEY KATJU, THE CHIEF JUSTICE

and

THE HONOURABLE MR. JUSTICE F.M.IBRAHIM KALIFULLA

Writ Appeal No.1270 of 2004

M/s. Navodaya Mass Entertainments Ltd.
rep. by its Chairman
Navodaya Lands Darkass Ward II
Varadharajapuram
Chennai - 600 044 ... Appellant

versus

1. M. Vaidyanathan
Arbitrator (Arbitral Tribunal)
No.309 (150) Lingi Chetty Street
First Floor, Chennai - 600 001.
2. M/s. J.M.Combines
a Partnership firm
rep. by its Partnership
No.15, Taylors Road
Kilpauk, Chennai - 600 010 ... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the order made in Writ Petition No.2218 of 2004 dated
7.2.2004.

for appellant : Mr. T.N. Rajagopalan

for respondent 2: Mr. Prakash Goklaney
for M/s. Menon & Goklaney
Associates

JUDGMENT

(Judgment of the Court was delivered by
The Honourable The Chief Justice)

This writ appeal has been filed against the impugned order of the learned single Judge dated 7.2.2004.

2. The writ petition was filed praying for a writ of Certiorari against the order of the Arbitrator dated 27.10.2003. By that order, the preliminary objection of the writ petitioner that the proceedings are barred by Section 22 of the Sick Industrial Companies (Special Provisions) Act, 1985 (hereinafter referred to as the 'Act') was rejected. The writ petitioner also raised an objection before the Arbitrator that there was no valid agreement for arbitration.

3. In our view, the writ petition was rightly rejected by the learned single Judge. The learned single Judge has followed the earlier order of this Court in M/s. Mangayarkarasi Apparels Pvt. Ltd. vs. Sundaram Finance Limited (2002 (2) CTC 585). We agree with the view taken by the learned single Judge.

4. Apart from the above, we are of the opinion that Section 22 of the Act has no application as the proceedings before an Arbitrator are not a suit nor are they proceedings for winding up of the industrial company or for execution, distress or the like. Hence Section 22(1) of the Act has no application at all.

5. There is no force in this appeal and it is dismissed. W.A.M.P.No.2387 of 2004 is dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

Vu

To,

The Arbitrator (Arbitral Tribunal)
No.309 (150) Lingi Chetty Street
First Floor, Chennai - 600 001.

1 cc to M/S. Menon & Goklaney, Associates SR. 14797

1 cc to Mr. T.N. Rajagopalan, SR. 14675

W.A.No.1270 of 2004

SSV (CO)
KK 1.4.05



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