

Saved for C. Ocean Faith

MEALEY PUBLICATIONS, INC., WAYNE, PA

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

OCEAN FAITH SHIPPING CO., LTD. * CIVIL ACTION
VERSUS * NO. 95-2683
UNION OF INDIA * SECTION "H"
FOOD CORPORATION OF INDIA

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ORDER AND REASONS

Before the Court is plaintiff's motion to recognize and confirm arbitration award. For the reasons set forth below, plaintiff's motion is DENIED.

BACKGROUND

On June 15, 1988, plaintiff, Ocean Faith Shipping Co., Ltd. ("Ocean Faith") entered into a charter party with the President of India, New Delhi for the purpose of transporting grain. Clause 73 of the charter party provided for arbitration of any dispute arising under the charter party.¹ At the completion of the voyage, a dispute arose about additional freight and demurrage claimed by Ocean Faith. Pursuant to Clause 73, the parties arbitrated their dispute in India. Ocean Faith appeared as the claimant in the arbitration proceedings, while defendants Union of India ("UOI")

¹ "All disputes arising under the Charter shall be settled in India in accordance with the provisions of the Arbitration Act 1940 of India ..."

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and Food Corporation of India ("FCI") appeared as the respondents in the proceedings. On June 27, 1993, the arbitration panel awarded to plaintiff \$78,384.64 plus interest. Defendants challenged the arbitration award in India and on December 29, 1995, the Bombay High Court entered a judgment and decree dismissing the challenge and awarding additional interest until the payment of the arbitration award.

Plaintiff now seeks enforcement of the arbitration award pursuant to Article III of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("the Convention") and 9 U.S.C. § 201. Defendants oppose enforcement of the arbitration award claiming, in part, improper venue. Because the Court agrees with defendants as to the issue of venue, the Court need not consider defendants' other arguments in opposition.²

ANALYSIS

Article III of the Convention provides for the enforcement of arbitration awards among signatories to the Convention. Convention, Art. III, 9 U.S.C. § 201. The United States and India are signatories to the Convention. 9 U.S.C. § 201. Jurisdiction for enforcing such arbitration awards lies in the district courts. 9 U.S.C. § 203. Section 204 provides that venue is proper:

² These arguments include: the failure of plaintiff to submit to the Court duly certified copies of the arbitration award and charter party, the applicability of several exceptions under Article V of the Convention to the enforcement of the arbitration award and that defendants were not signatories of the charter party at issue and are not bound by the arbitration proceeding in which they participated.

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... in any such court in which save for the arbitration agreement an action or proceeding with respect to the controversy between the parties could be brought, or in such court for the district and division which embraces the place designated in the agreement as the place of arbitration if such place is within the United States.

9 U.S.C. § 204. There is no question that the arbitration took place outside of the United States and that the second clause of § 204 is inapplicable. Accordingly, Ocean Faith must demonstrate that venue is proper in this judicial district "save for the arbitration agreement."

28 U.S.C. § 1391(f) provides where venue is proper for suits against a "foreign state."³ Section 1391(f) establishes proper venue, in pertinent part:

(3) in any judicial district in which the agency or instrumentality is licensed to do business or is doing business...

(4) in the United States District Court for the District of Columbia if the action is brought against a foreign state or political subdivision thereof.

Ocean Faith argues that defendants are doing business in New Orleans and that venue is therefore proper in the Eastern District of Louisiana. In support of its argument, plaintiff makes the conclusory statement that "it is inconceivable that PCI is not doing business in this district when the port of New Orleans exports more grain than any port in the world." Plaintiff also offers "Port Allocation Sheets" from the Kansas City Commodity Office to demonstrate the magnitude of the cargo transported between New Orleans and India. These submissions, without more, do

³ The parties do not appear to contest the defendants' status as a "foreign state" under 28 U.S.C. § 1603.

not demonstrate that defendants are doing business in New Orleans.⁴ Accordingly, the Court finds that subsection (3) of § 1391 does not authorize venue in this district.

While venue is not proper in this judicial district, the Court finds that subsection (4) does authorize venue in the District of Columbia. See note 3, *supra*. Accordingly, pursuant to 28 U.S.C. § 1405(a) and in the interest of justice, the Court transfers this action to the United States District Court for the District of Columbia.

For the reasons set forth above,"

IT IS ORDERED that plaintiff's motion to recognize and confirm arbitration award is DENIED;

IT IS FURTHER ORDERED that this case be TRANSFERRED to the United States District Court for the District of Columbia.

New Orleans, Louisiana, this 3rd day of May, 1996.

Edith Brown Clement
EDITH BROWN CLEMENT
UNITED STATES DISTRICT JUDGE

⁴ The Court cannot find a single entry on the Port Allocation Sheets listing defendants.