

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2015

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

and

THE HON'BLE MRS. JUSTICE PUSHPA SATHYANARAYANA

O.S.A.No.218 of 2015

1. Bostan Scientific International BV
having office at Vestastraat 6,
6468 Ex, Kerkrade, The Netherlands,
rep. by its Power of Attorney Rajiv Kapahi,
C-40/41, Okhla Industrial Area,
Phase II, New Delhi-110 020.
2. Boston Scientific India Pvt. Ltd.,
having its registered office at
C-40/41, Okhla Industrial Area,
Phase II, New Delhi-110 020
and having its branch office at
8th Floor, Tower A, Building No.5,
DLF Cybercity, Gurgaon, India 122 002
rep. by its Director Rajiv Kapahi. ... Appellants/Applicants

vs

Trivitron Healthcare Pvt. Ltd.,
having office at
Trivitron Sapthagiri Bhavan,
No.15, 4th street, Abhiramapuram,
Chennai-600 018
rep. by Prema
Chief Financial Controller.

...Respondent/Respondent

Appeal filed under Clause 15 of the Letters Patent read with
Order XXXVI, Rule 9 of Original Side Rules against the order made in
Application No.3650 of 2015 in C.S.No.380 of 2015.

For Appellants .. Mr.Sathish Parasaran
for
M/s.S.Mukundan

For Respondent .. Mr.Anirudh Krishnan

JUDGMENT

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

We have heard the further arguments of the learned counsel for parties.

2. We may notice that we are concerned at this stage with only the grant of leave to sue, which was sought to be revoked in an application filed by the appellant. The application filed by the appellant under Section 45 of the Arbitration and Conciliation Act, 1996 as well as the application for grant of interim injunction are still pending consideration before the learned Single Judge. However, the learned Single Judge appears to have transgressed into areas related to these applications while passing the impugned order. We are of the view that such course of action was not permissible. Thus, we have no hesitation in observing, and it cannot be seriously disputed by the respondent that those aspects relating to the remaining two applications could not have been commented upon, making them almost infructuous. We may say this is specifically in the context of the belief expressed by the learned Single Judge of the necessity of the determination of the issues post trial.

3. We did express our concern to the learned counsel for the respondent as to the methodology adopted for appropriating Rs.8.5 Crores and thereafter issuing stop payment instructions qua RTGS cheque issued by the respondent when it was clear that the amount being paid to the respondent was for that purpose. Thus, if no settlement has effectively taken place as canvassed by the respondent, then the parties must be at an even keel to fight the litigation and the amount ought not to have been taken.

4. The learned counsel for the respondent, on instructions from Ms.R.Prema, Chief Finance Controller of the respondent fairly concedes that they are willing to deposit Rs.8.5 Crores to the credit of the suit and the payment to be made over depending on the fate of the suit. A period of one month is requested for deposit of the amount, which we accede to. The amount will be kept in an interest bearing deposit initially for a period of one year, to be kept renewed till further orders.

5. The result of the aforesaid is that the matter will go before the learned Single Judge now for consideration of the pending applications and the consequences of the orders to be pronounced thereupon, while striking out the observations in the impugned order. qua those applications, more specifically the aspect of trial being necessary to determine the matters in issue.

6. The appeal, accordingly, stands disposed of, leaving the parties to bear their own costs. List the applications (O.A.No.485 of 2015 and A.No.3652 of 2015 in C.S.No.380 of 2015) before the learned Single Judge for directions on 08.12.2015.
bbr

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

To:

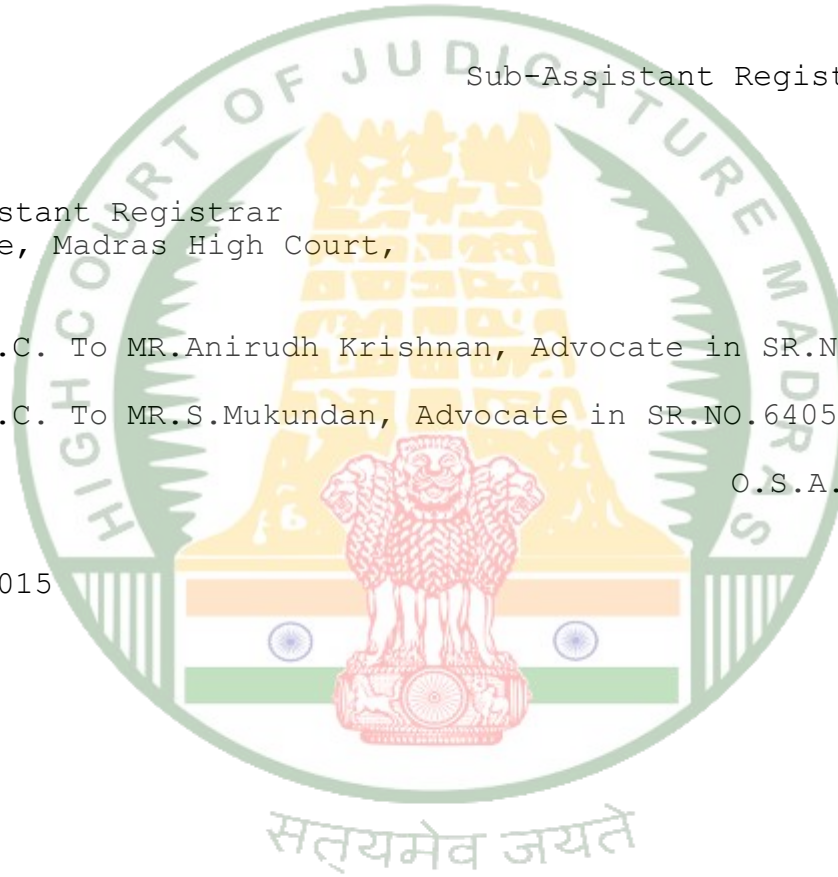
The Sub Assistant Registrar
Original Side, Madras High Court,
Chennai.

+1 C.C. To MR.Anirudh Krishnan, Advocate in SR.NO.63688

+1 C.C. To MR.S.Mukundan, Advocate in SR.NO.64057

O.S.A.No.218 of 2015

UG(CO)
sd : 07/12/2015



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