

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2015

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.23846 of 2015
and M.P.No.1 of 2015

M/s.Chettinad Cement Corporation Limited,
Rep. by Senior Marketing Officer & Power Agent
Mr.Sulthan Ibrahim Khan
No.603, Anna Salai , Chennai-600 006. ... Petitioner

Vs.

1. Alacrity Housing Limited,
"ATANDRA"
New No.25, Old No.15, Thirumalai Road,
T.Nagar, Chennai-600 017.
2. Ashok Karnad
Managing Director,
Alacrity Housing Limited,
T.Nagar, Chennai-600 017.
3. Satyajith K.Hattangadi,
Senior Manager,
Production Home,
Alacrity Foundation Pvt. Ltd.,
"ATANDRA"
New No.25, Old No.15, Thirumalai Road,
T.Nagar, Chennai-600 017.
4. Nagesh Aror,
President,
Alacrity Foundation Pvt. Ltd.,
"ATANDRA"
New No.25, Old No.15, Thirumalai Road,
T.Nagar, Chennai-600 017.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records in C.C.No.12306 of 2003, pending on the file of the learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai and set aside the order dated 12.08.2015 made in Crl.M.P.No.1926 of 2015 in C.C.No.12306 of 2003.

For Petitioner : Mr.M.Praveen Kumar

O R D E R

This Criminal Original Petition has been filed to call for the records in C.C.No.12306 of 2003, pending on the file of the learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai and set aside the order dated 12.08.2015 made in Crl.M.P.No.1926 of 2015 in C.C.No.12306 of 2003.

2. Heard Mr.M.Praveen Kumar, the learned counsel for the petitioner.

3. It is seen that this petitioner had lodged a private complaint in C.C.No.12306 of 2003 against the respondents for the offence under Section 138 of Negotiable Instruments Act. The complainant is a juristic person. On behalf of the complaint, one Mr.Solaimalai was examined as PW1 on 16.06.2004. On 04.01.2006 and 02.07.2012, he was cross-examined by the accused. Thereafter, the accused were examined under Section 313 Cr.P.C., and two witnesses were examined on behalf of the accused.

4. Both sides advanced arguments before the Trial Court. At that juncture, the petitioner/complainant filed an application under Section 311 Cr.P.C., for examining one Mr.Sulthan Ibrahim Khan as PW2 and for marking certain documents which came into existence after launching of the prosecution. The Trial Court on hearing both sides, by a considered order dated 12.08.2015, dismissed the application, challenging which the petitioner/complainant is before this Court.

5. The learned counsel for the petitioner submitted that, during the course of arguments, it was contended by the counsel for the accused that Solamalai did not have any authority to represent the company.

6. In the considered opinion of this Court, just because arguments were raised on behalf of the accused, that cannot lead to an inference that, the learned Trial Judge will accept the arguments. Further the complainant cannot be permitted to fill the lacuna, if there is any, at such a distant point of time, for that will cause undue prejudice to the case of the accused. Therefore, this court, does not find any infirmity in the orders passed by the Trial Courts below. Hence, this petition is dismissed as devoid of merits. Consequently, connected miscellaneous petition is also dismissed.

7. Whatever is observed above, is only for the limited extent of deciding this quash petition and the Trial Court shall proceed with the trial without being influenced by what is stated above.

ds

s/d-
Assistant Registrar(CS-III)

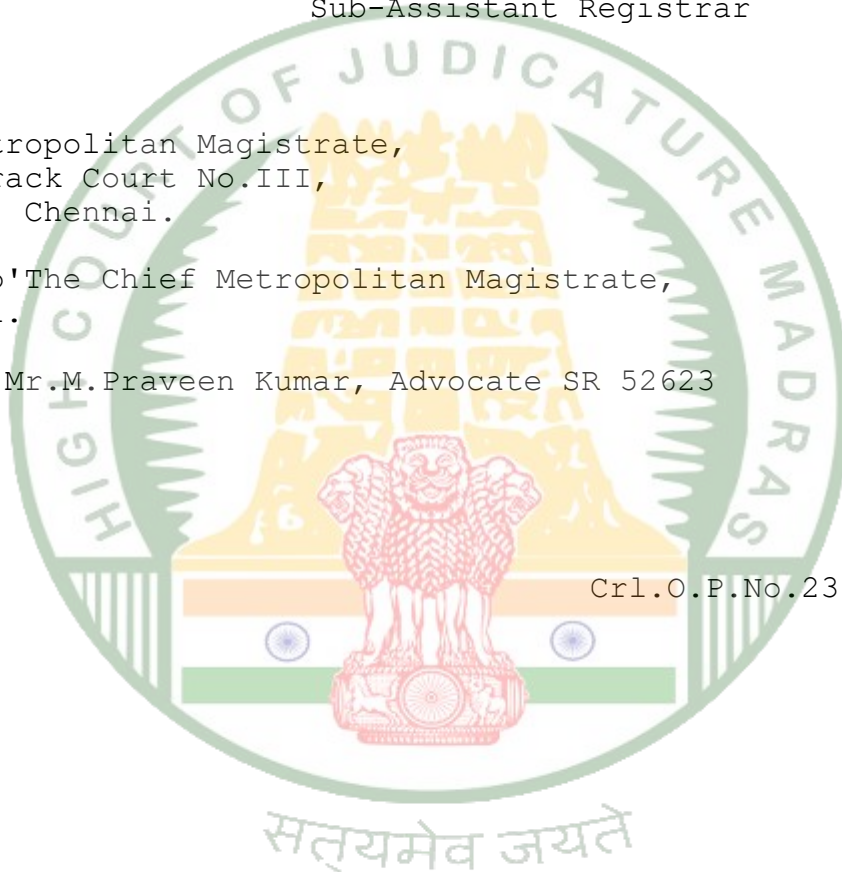
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Sub-Assistant Registrar

To

1. The Metropolitan Magistrate,
Fast Track Court No.III,
Egmore, Chennai.
 2. do thro' The Chief Metropolitan Magistrate,
Chennai.
- + 1 cc to Mr.M.Praveen Kumar, Advocate SR 52623

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Cr1.O.P.No.23846 of 2015

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