

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) NO.2241 OF 2003
AND C.M.P.NO.16960 OF 2003

M/s.Richardson & Cruddas Ltd.,
No.69-D, Sidco Industrial Estate,
Ambattur,
Chennai - 600 098.

... Petitioner

Vs.

L.Rathina Kumar
Proprietor
M/s.Sigh Smith
Shop No.26, No.3, Anna Salai,
City Centre Plaza,
Chennai - 600 018.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order of the learned XII Assistant Judge, City Civil Court, Chennai dated 21.01.2003 passed in I.A.No.9840 of 2002 in O.S.No.3390 of 2002.

For Petitioner : Mr.R.Madanagopal

For Respondent : No appearance

O R D E R

This Civil Revision Petition is filed against the order dated 21.01.2003 passed in I.A.No.9840 of 2002 in O.S.No.3390 of 2002 by the learned XII Assistant Judge, City Civil Court, Chennai.

2.The respondent had instituted the suit against the petitioner for recovery of a sum of Rs.1,17,685.90. The respondent also filed an application in I.A.No.9840 of 2002 under Order 38 Rule 5 of the Code of Civil Procedure for direction to the defendant / petitioner herein to furnish security for the suit

claim, failing which for attachment of movable properties. The application was opposed by the petitioner herein stating that there is no privity of contract between the plaintiff and the defendant and the plaintiff company was already before the Board for Industrial and Financial Reconstruction (BIFR). The Trial Court without considering the objections, directed the petitioner to furnish security for the suit claim, vide order dated 21.01.2003. Challenging the order, the present Civil Revision Petition is filed.

3.Mr.R.Madanagopal, learned counsel for the petitioner submitted that the petitioner company is a Government of India undertaking and when there is no privity of contract between the plaintiff and the defendant, the petitioner cannot be directed to furnish security for the suit claim. It is further submitted that the plaintiff company was already before BIFR and without ascertaining the status, the Trial Court ought not to have issued such direction.

4.I see considerable force in the arguments of the learned counsel for the petitioner. The Trial Court, without considering the objections of the petitioner, directed them to furnish security for the suit claim.

5.In view of the above finding, the impugned order is liable to be set aside and accordingly, the same stands set aside and the matter is remanded back to the Trial Court for fresh consideration.

6.This Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

TK

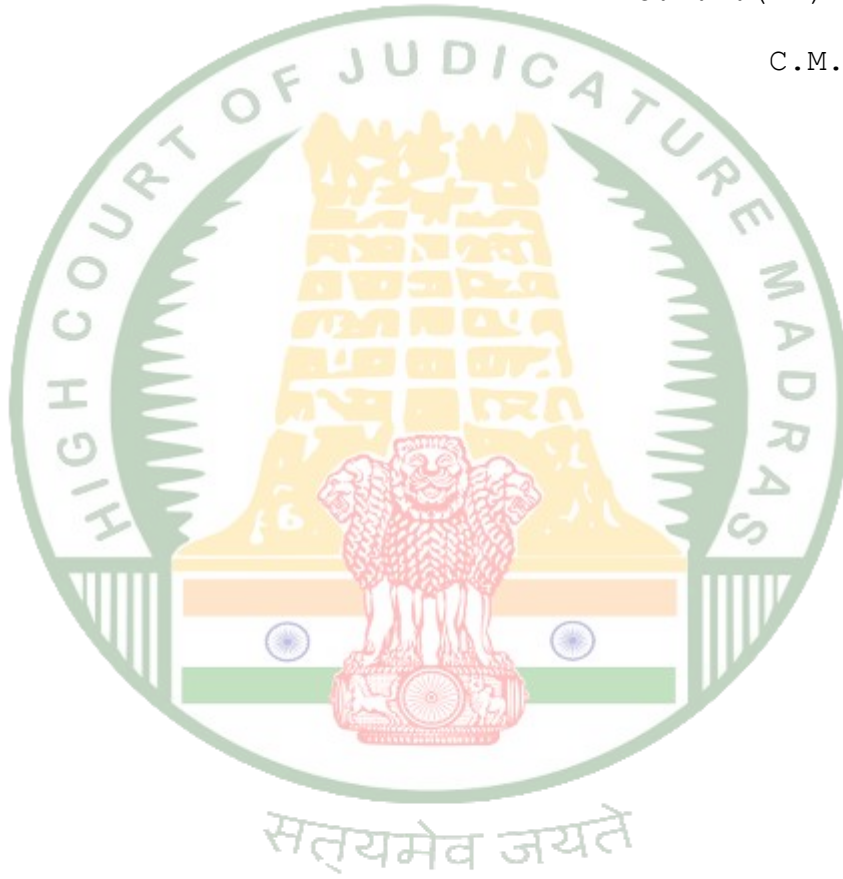
To

The XII Assistant Judge
City Civil Court
Chennai.

1 cc to Mr.R. Madanagopal, Advocate, sr. 10608

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