

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.758 of 2016 and
CMP No.4185 of 2016

1.V.Sathyanarayanan
2.Venkatasubramanian Jayasankaran ...Petitioners

versus

Chemplast Sanmar Ltd.,
Trubore Piping Systems
Represented by its Assistant
General Manager (Legal)
K.G.Bhushanam ...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the part of conditional order and decree dated 25.01.2016 passed in I.A.No.20613 of 2011 in O.S.No.6263 of 2011 by the learned IV Additional Judge, City Civil Court at Chennai.

For Petitioners : Mr.K.S.Ganesh Babu

For Respondent : Dr.P.Vasudevan

ORDER

The petitioners filed an application in I.A.No.20613 of 2011 in O.S.No.6263 of 2011 to grant them unconditional leave to defend the suit in O.S.No.6263 of 2011. The application was allowed by the Trial

Court with a direction that the petitioners must deposit 25% of the suit claim. The civil revision petition is filed to set aside the direction with regard to the deposit of 25% of the suit amount.

2. Heard the learned counsel for the petitioners and the learned counsel appearing on behalf of the respondent.

3. The Trial Court found that there are triable issues and as such, unconditional leave should be granted to the petitioners to defend the suit in O.S.No.6263 of 2011. Having found that the petitioners are entitled to unconditional leave, the learned Trial Judge was not correct in imposing a condition to deposit 25% of the suit amount. It is not the case of the Trial Court that the petitioners are not entitled to unconditional leave. The Trial Court very clearly stated that the petitioners are entitled to defend the suit and that there are triable issues. Such being the factual position, the Trial Court was not correct in imposing the condition to deposit 25% of the suit amount. I am therefore of the view that the condition is liable to be set aside.

4. The order passed by the IV Additional Judge, City Civil Court, Chennai, dated 25 January 2016 is modified. The petitioners are given

unconditional leave to defend the suit without any liability to deposit the amount as indicated in the order dated 25 January 2016 in I.A.No.20613 of 2011.

5. The Civil Revision Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

04.11.2016

Index : Yes/No
svki

To

The IV Additional City Civil Court,
Chennai

K.K.SASIDHARAN, J.

(svki)

C.R.P.(P.D.) No.758 of 2016

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