

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 20TH DAY OF APRIL 2017

THE HON'BLE MR. JUSTICE K.KALYANASUNDARAM

A.No.2416 of 2017  
in  
C.S. No.302 of 2017

M/s.Trimex Industries Pvt Limited,  
Rep.by its Vce President - Legal,  
Mr.s.Sudhakaram,  
Trimex Towers, No.1, Subbaraya Avenue,  
C.P.Ramaswamy Road,  
Alwarpet,  
Chennai 600 018. ...Plaintiff

Vs

M/s.Ind Barath Power Gencom Ltd.,  
Rep.by its Managing Director,  
having registered Office at  
No.20, Chamiers Road,  
Nandanam,  
Chennai 600 035. ...Defendant

**A.No.2416 of 2017**

M/s.Trimex Industries Pvt Limited,  
Rep.by its Vice President - Legal,  
Mr.s.Sudhakaram,  
Trimex Towers, No.1, Subbaraya Avenue,  
C.P.Ramaswamy Road,  
Alwarpet,  
Chennai 600 018. ...Applicant/Plaintiff

Vs

M/s.Ind Barath Power Gencom Ltd.,  
Rep.by its Managing Director,  
having registered Office at  
No.20, Chamiers Road,  
Nandanam,  
Chennai 600 035. ...Respondent/Defendant

2. The Tamil Nadu Generation and  
Distribution Corporation (TANGEDCO)Ltd.,  
Rep.by its the Chairman & Managing Director,  
144, Anna Salai,  
Chennai 600 002.

....Respondent/Garnishee

Application praying that this Hon'ble Court be  
pleased to pass a prohibitory order against the 2<sup>nd</sup>  
Respondent/Garnishee and prohibiting them from paying any  
amount to the tune of Rs.17,23,12,118/- (Rupees Seventeen  
Crores Twenty Three Lakhs Twelve Thousand One Hundred and  
Eighteen Only) to the 1<sup>st</sup> Respondent/Plaintiff and direct  
the said Garnishee to deposit the said amount to the  
credit of this Suit.

This Application coming on this day before this  
court for hearing the court made the following order:

Applicant is the plaintiff. Pending the suit, the  
present application has been filed, seeking an order of  
prohibitory order, prohibiting the second respondent /  
Garnishee from paying any amount to the tune of  
Rs.17,23,12,118/- to the first respondent and direct the  
said Garnishee to deposit the said amount to the credit  
of the suit.

2. Mr.R.Krishnamurthy, learned Senior Counsel for  
the applicant would submit that the suit has been filed  
for recovery of money. The applicant is carrying on the  
business of trading in iron ore, coal, barytes, bentonite

and other minerals for the last several years and the first respondent had approached the applicant to purchase the non coking steam coal of Indonesian origin. Pursuant thereto, they have executed necessary documents and as per the terms of the High Seas Sale Agreement and purchase orders, payments for the goods is to be made within 60 days from the date of completion of vessel discharge at Tuticorin Port. However, the first respondent failed to clear the dues, hence, the suit.

3. The learned Senior Counsel would further submit that the first respondent is not disputing the liability of the applicant and the communications would show that they wanted only time to make the payment. It is further submitted that the first respondent is not financially sound enough to settle the amounts to the applicant and the second respondent/garnishee is holding monies of the first respondent, approximately, Rs.60,00,00,000/- (Rupees Sixty Crores only). Hence, unless the second respondent is prohibited from making payment of the suit claim, the applicant would be put to irreparable loss and hardship.

4. Mr.Anirudh Krishnan, learned counsel for the first respondent would submit that as per the provisions

of the Court Fees Act, the applicant ought to have paid Court fee at the rate of 3% of the suit claim, but they have paid only 1%. It is further submitted that if the application is allowed, it would amount to decreeing the suit itself.

5. Considered the rival submissions and perused the materials available on record.

6. Taking into consideration the above fact, the second respondent / garnishee is prohibited from paying amount to the tune of Rs.17,23,12,118/- to the first respondent.

7. Post the matter on 09.06.2017.

sd/.M.K.K.S.J

20.04.2017

//Certified to be a true copy//

Dated this the        day of                      2017

R.s/28.04.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.