

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.2417 of 2017
in
C.S. No.303 of 2017

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

...Plaintiff

-Vs-

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

...Defendant

A.No.2417 of 2017

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

...Plaintiff

-Vs-

01. M/s.Ind Barath Thermal Power Ltd,
Rep. by its Managing Director,
having registered Office at
No.20, Cnamiers Road,
Nandanam,
Chennai-600 035

... 1st Respondents/Defendant

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

...2nd Respondent/Garnishee

Application praying that this Hon'ble Court be
pleased to pass a prohibitory order against the 2nd
Respondent/Garnishee and prohibitory them from paying any
amount to the tune of Rs.28,46,18,581/- (Rupees Twenty
Eight Crores Forty Six Lakhs Eighteen Thousand Five
Hundred and Eighty One Only) to the 1st
Respondent/Plaintiff and direct the said Garnishee to
deposit the said amount to the credit of this suit
pending disposal of the above 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.28,46,18,581/- 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.28,46,18,581/- 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.