

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORIGINAL JURISDICTION)

THURSDAY, THE 19th DAY OF APRIL 2018

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

COMP.APPLN.NO.243 OF 2017

IN

COMP.PETN.NO.303 OF 2010

In the matter of the Companies Act, 1956

and

In the matter of M/s.Royalaseema Commodities Limited

(In Liquidation)

C.P.No.303/2010:

M/s.Packmaster Containers Private Limited,
Rep.by its Director, Chaitanya
Plot No.7K-P2, KIADB Industrial Area,
Bashettihalli, Doddaballaur,
Bangalore - 561 203.

.. Petitioner

-Vs-

M/s.Royalaseema Commodities Limited,
(Formerly M/s.Sudarshan Overseas Limited)
Rep.by its Managing Directors,
V.Nagarajan & J.Parthasarathy,
New No.3/1, Old No.65/1,
Amaravathi Nagar, 2nd Cross Street,
Arumbakkam, Chennai - 600 106.

.. Respondent

C.A.No.243/2017:

M/s.OMCE JORDAN,
P.O.Box 6243, Amman 11118 (Jordan),
Rep.by Their Power Attorney Holder Arun Kishore,
246C, Express View Apartments,
Sector - 93, Noida 201304.

.. Applicant

-Vs-

THE OFFICIAL LIQUIDATOR,
High Court Madras,
Liquidator of M/s.Rayalaseema Commodities Limited,
(formerly M/s.Sudarshan Overseas Limited),
(In Liquidation)

...Respondent

The Company application praying this court to grant leave to the applicant to proceed with Suit No.1719 of 2009 filed by it before the Hon'ble High Court of Judicature at Delhi for the recovery of US \$ 1482019.01 equivalent to Rs.7,14,99,562/- at the exchange rate of Rs.48.24 per USD from the Company in liquidation.

The Company application coming on this day before this court for hearing the court made the following order:-

This application has been filed by the applicant to proceed with the suit in Suit No.1719 of 2009 on the file of the High Court of Judicature at Delhi.

2.Learned counsel appearing for the applicant submits that the suit was in fact closed, giving liberty to the applicant to revive it in view of the order passed by this Court dated 26.04.2012. Accordingly, it was held that if leave is granted by this Court, appropriate order would be passed for revival of the suit. This order was passed on 29.10.2015. Thus, the learned counsel would submit that if this Court passes an order granting leave to proceed with the suit, then appropriate application will have to be filed for revival. Learned counsel further submits that there are two other individuals viz., Managing Director and I.C.I.C.I. Bank.

3.Learned Official Liquidator would submit that there

is no sufficient fund to contest the suit by engaging a lawyer at Delhi and if the suit is transferred to Chennai, then he will be in a position to contest the suit by him or through any other lawyer. In such an eventuality, the process of coming over to Delhi to conduct the case cannot rise. Therefore, it is submitted that the suit may be transferred to the file of this Court.

4.Considering the submissions made, this Court is of the view that while granting the prayer of the applicant, it would be appropriate to transfer the suit to this Court, after appropriate orders are passed by the Delhi High Court. Though the applicant has sought for substantial relief against the company in liquidation, the other defendant is nothing but the then Managing Director of the company. ICICI Bank arrayed as the defendant can also very well contest the suit at Chennai. We have to see it from the point of view of the difficulties expressed by the Official Liquidator representing the company in liquidation. It is stated that the company may not be able to defend the case at Delhi and the said request to transfer the case to Chennai requires to be considered in the affirmative. Now the applicant is being represented by a counsel. Therefore, there is no difficulty for the said counsel to contest the suit also.

5. In such view of the matter, the application stands ordered in the following terms:

1. The applicant is granted leave to proceed with the suit in C.S. (OS) No.1719 of 2009 on the file of the High Court of Judicature at Delhi.

2. This order is subject to the order to be passed on the application to be filed by the applicant before the High Court of Judicature at Delhi.

3. On appropriate orders being passed, restoring the suit, the same shall stand transferred to the file of this Court to try the same along with C.P.No.303 of 2010.

Sd/-M.M.S.J
19.04.2018

//Certified to be a true copy//

Dated this the day of 2018
JJ 26/10/18

COURT OFFICER

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