

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE N. AUTHINATHAN

O.S.A.No.350 of 2013

LLOYDS REGISTER ASIA,
Rep.by its Senior Surveyor Incharge,
Unit No.1, 3rd floor,
No.19, Rukmani Lakshmipathi Road,
Egmore, Chennai-600 008 ... Appellant/Defendant

Vs

TITANIUM EQUIPMENT AND ANODE
MANUFACTURING COMPANY LIMITED,
Rep by Authorised Signatory
S. Ramanujam
Team House, GST Salai,
Vandalur, Chennai-600 048 ... Respondent/Plaintiff

Appeal filed Under Order 36 R.1 of Original Side Rules r/w
clause 15 of the Letters Patent against the order of the
learned Single Judge made in Application No.192 of 2007 in
C.S.No.809 of 2006 dated 30.03.2010 on the file of this Court,
which was filed to reject and or return the plaint.

For Appellant : Mr.S. Sethuraman

For respondent : Mr. Satish Parasaran

JUDGMENT

[Judgment of the court was delivered by S.NAGAMUTHU, J.]

The appellant is the sole defendant in the suit in C.S.
No.809 of 2006 before the learned Single Judge of this Court.
That suit has been filed for recovery of Rs.53,61,000/- with
interest from the defendant

2. Before the learned Single Judge, the defendant filed an
application in O.A.No.192 of 2007, seeking to reject the plaint
on the ground of territorial jurisdiction. It was contended
before the learned Single Judge that as per the terms of
agreement entered into between the parties, any suit or any

further claim could be made in a Court in United Kingdom and that this Court has got no jurisdiction. The learned Judge has held that it is a question of fact of law whether this Court has got jurisdiction to entertain the suit or not and therefore, plaint cannot be rejected. The learned Single Judge further held that question of jurisdiction can be gone into by framing appropriate issues in the suit itself. In our considered view, in the light of the said view taken by the learned Single Judge, we do not find any infirmity in the order. The learned Single Judge relied on a decision in the case of Modi Entertainment Network and another vs W.S.G Cricket PTE Ltd,) reported in 2003 (4) 341, wherein the Hon'ble Supreme Court has held that the burden of establishing that the forum of choice is a forum non-convenience of the proceedings therein or oppressive or vexatious would be on the party so contending to aver and prove the same. In the instant case, the disputed facts are to be decided by framing appropriate issues before the learned Single Judge. The defendant need not feel aggrieved because the learned Single Judge has not rejected the claim of the defendant on the question of jurisdiction. The learned Single Judge has left it open. We are not inclined to entertain the same. Therefore, the appeal fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sr

To

The Sub Assistant Registrar,
(Original Side),
High Court, Chennai.

सत्यमेव जयते

+1cc to Mr.S.Sethuraman, Advocate, S.R.No.3302

O.S.A No.350 2013

PPA(CO)
CA(01/02/2017)