

A.No.3913 of 2019 & 3947 of 2018
in
CS.No.292 of 2018

K.KALYANASUNDARAM, J.

The Application No.3913 of 2018 was filed by the plaintiff seeking direction to respondent to furnish security for the suit claim, failing which, attach the schedule mentioned property before the judgment to safeguard the interest of the applicant company.

2. When the application was taken up for hearing on 11.03.2019, the respondent appeared through a counsel and filed counter, whereby, an undertaking was given to deposit a sum of Rs.1.Crore to the credit of C.S.No.292 of 2018, within a period of two months. The Undertaking given by the applicant was recorded and the matter was adjourned for reporting compliance. While so, the present application in A.No.3913 of 2019 has been filed by the defendant to modify the order dated 11.03.2019 and permit the Applicant/Respondent/defendant to furnish immovable property as Security for the suit claim.

3. The learned counsel for the applicant would submit that the applicant/defendant could not mobilise the fund and hence the undertaking given by the applicant was not complied with and hence, the petitioner offers another property as security for the suit claim. According to the learned counsel, the said property is worth of Rs.3.Crores.

4. Counter affidavit has been filed by the respondent stating that the property now offered by the applicant is worth only Rs.30-40 lakhs. It is further submitted that the applicant/defendant gave an undertaking in the month of March 2019, instead of depositing the amount of Rs.1.Crore, the present application has been filed.

5. In the instant case, the suit has been filed based on the indemnity bond given by the respondent and for breach of contract. It is also stated that the respondent/defendant is attempting to encumber, alienate the property in order to deprive the right of the applicant/plaintiff.

6. In the light of the above facts, I am of the opinion that the applicant is entitled for an order of attachment before judgment. The application No.3947 of 2018 is ordered accordingly.

7. In view of the order passed in Application No.3947 of 2018, the Application No.3913 of 2019 is dismissed.

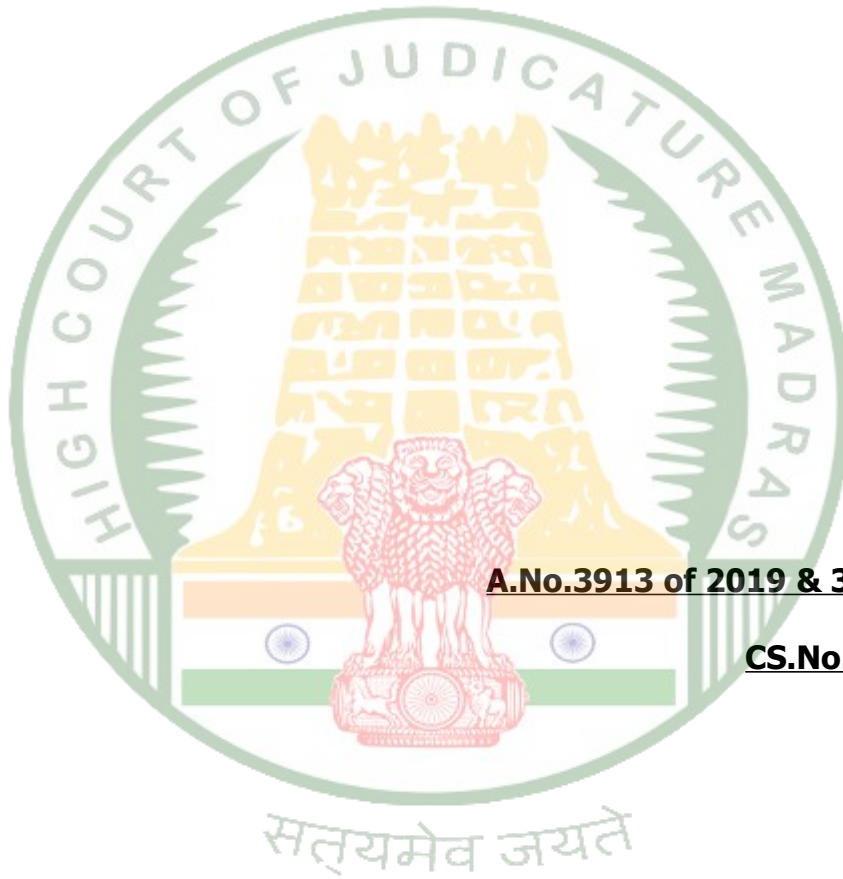
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27.09.2019

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