

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY THE 21ST DAY OF MARCH 2018

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

A. No. 54 of 2018

in

C.S.No.585 of 2017

Visesh Cargo & Travels Pvt .Ltd
Rep. by its Managing Director,
Mr.M.Gangadharan,
Having Office at No.6, Avvaiyar Street,
Meenambakkam, Chennai - 600 027 ..Plaintiff

Vs

- 1.M/s.H.L.Marine Food
Rep. By its Sole Proprietor,
D.Manjula W/o S.Dayanidhi
NO.4 Samy Street
Chintadripet, Chennai-600 002.
- 2.D.Manjula
W/o S.Dayanidhi
Plot No. AP2249 Door No.58
L Block 26 th Street
Anna Nagar East, Chennai-600 102.
- 3.S.Dayanidhi
S/o T.V.Sarangan
Plot No. AP2249, Door No.58
L Block 26 th Street
Anna Nagar East, Chennai-600 102. ..Defendants

A.54 of 2018

M/s. RBL Bank Ltd.,
Having its Branch Office at
Anand Business Centre,
No.105/56, G.N.Chetty Road,
T.Nagar, Chennai - 600 017
Rep. By its Authorised Representative
Mr.L.Aravind ..Applicant/Third Party

-vs-

- 1.Visesh Cargo & Travels Pvt .Ltd
Rep. by its Managing Director,
Mr.M.Gangadharan,
Having Office at No.6, Avvaiyar Street,
Meenambakkam,
Chennai - 600 027 ..Respondent/Applicant/Plaintiff

2.M/s.H.L.Marine Food

Rep. By its Sole Proprietor,
D.Manjula W/o S.Dayanidhi
NO.4 Samy Street, Chintadripet, Chennai-600 002.

3.D.Manjula

W/o S.Dayanidhi
Plot No. AP2249 Door No.58
L Block 26 th Street
Anna Nagar East, Chennai-600 102.

4.S.Dayanidhi

S/o T.V.Sarangan
Plot No. AP2249, Door No.58
L Block 26 th Street, Anna Nagar East,
Chennai-600 102. ..Respondents/Respondents/Defendants

Application praying that this Hon'ble Court be pleased to implead the applicant namely M/s. RBL Bank Ltd., Having its Branch Office at Anand Business Centre, No.105/56, G.N.Chetty Road, T.Nagar, Chennai - 600 017, as necessary party in the above suit and in A.4187 of 2017 in C.S.No.585 of 2017

This application coming on this day before this court for hearing and the Court made the following order:

The plaintiff is an exporter of Marine products for more than eight years. The marine products belong to the first defendant's Company. The last made an export on 12.04.2017. The first defendant was obliged to make payment to the plaintiff. The payments were intermittent in nature. Consequently, after issuing notice, the suit had been filed seeking recovery of a sum of Rs.3,09,02,496/- together with interest and costs.

2. The plaintiff had also filed Application seeking furnishing of security from the respondents/defendants. The security was not furnished and consequently, the properties mentioned in the Judges Summons were attached. At that stage, the applicant in the present application had filed this application seeking to implead themselves as a party to the suit.

3. The reasons for such necessity arose because

the applicant, who is the RBL Bank Ltd., at T.Nagar, Chennai, is a mortgagee and the second defendant, who represents the first defendant, had executed a memorandum confirming deposit of title deeds with respect to the property at Plot No. A.P.2249, Door No. 58E, L Block, 26th Street, Anna Nagar East, Chennai - 600 102. This memorandum of deposit of title deeds had also been registered as Document No. 2612 of 2015 in the Office of the Sub Registrar, Anna Nagar. The said document had also been produced in the form of typed set of papers by the learned counsel for the applicant.

4. Heard the learned counsel for the plaintiff also on this aspect.

5. It is stated that in the *lis* between the plaintiff and the defendants, the applicant is not a necessary party and they are also not a proper party. However, if at all a decree is passed, at the time of passing of the decree, since they are having a charge over the property, which is also subject matter on attachment by this Court, they can always be permitted to participate and enforce the mortgage.

6. With these observations, this Application is closed. It is again made clear that the applicant's statement that they have an existing first charge over the property at Anna Nagar, is also recognised by this Court.

7. Post the suit before the Master on 05.04.2018 since the suit was instituted under the provisions of Order 37 CPC.

Sd./-C.V.K.J
21.03.2018

//Certified to be true copy//
Dated at Madras this the th day of 2018.

COURT OFFICER (O.S.)

bp/18.04.2018

From 5th Day of FEBRUARY 2018 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.