

Application No.3797 of 2019
in C.S.Diary No.52242 of 2019

KRISHNAN RAMASAMY, J.,

The present Application has been filed seeking to grant leave to sue the defendants 2 & 3 in the present suit before this Court. The suit is filed for the following reliefs:

"(i) to declare that the plaintiff is entitled to the benefits of G.O.Ms.No.296, Finance (Salaries) Department, dated 09.10.2017 in respect of the package 7, Contract No.CR(10Y)005779/Contracts-1/2017 dated 27.04.2017;

(ii) for a mandatory direction directing the defendants to pay a sum of Rs.71,87,586.02/- being the amounts payable by the defendants to the plaintiff as GST within the time frame fixed by this Court;

(iii) for cost of the suit."

2.1. The learned counsel appearing for the applicant submitted that the applicant is carrying on the business of laying, repairing and improving roads and the respondents are in charge of laying, repairing and improvements of roads in and around Tamil Nadu and they do all the works by engaging contractors by inviting tenders.

2.2. He would also submit that the first respondent called for a tender through the second respondent and the applicant was declared as successful bidder for improvements on Government roads in Dharapuram Highways pursuant to the proceeding No.CR(10Y)005779/Contracts-1/2017 dated 27.04.2017 for a total value of Rs.5,42,63,689/- under the CRIDP 2016-17 Scheme by the first respondent. He further submitted that the Government of Tamil Nadu passed G.O.Ms.No.296, Finance (Salaries) Department, dated 09.10.2017, in order to avoid placing of unreasonable tax burden on the contractors with Government.

KRISHNAN RAMASAMY, J.,

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2.3. The learned counsel fairly submitted that the first respondent is the person who has to direct the respondents 2 & 3 to apply G.O.Ms.296, Finance (Salaries) Department dated 09.10.2017 and he is the authority who has to approve the calculation and allot the funds and the respondents 2 & 3 will only execute the orders of the first respondent. He would contend that the first respondent is within the jurisdiction of this Court whereas the respondents 2 & 3 are outside the jurisdiction of this Court and for the purpose of this suit, the first respondent is a person who is responsible to act upon, if the decree is granted by this Court.

2.4. He would also submit that the present contract is entirely performed at Dharapuram, Erode since that is only a part of cause of action and for the purpose of the suit, the part of obligation is to be performed in Chennai by the first respondent because Chennai is the place where the major part of the cause of action has arisen.

3. Taking into consideration of the facts and circumstances of the case and also having been satisfied with the reasons stated in the affidavit filed in support of the Application, this Application is ordered as prayed for.

4. Registry is directed to number the suit, if it is otherwise in order and after numbering the suit, post the same for hearing.

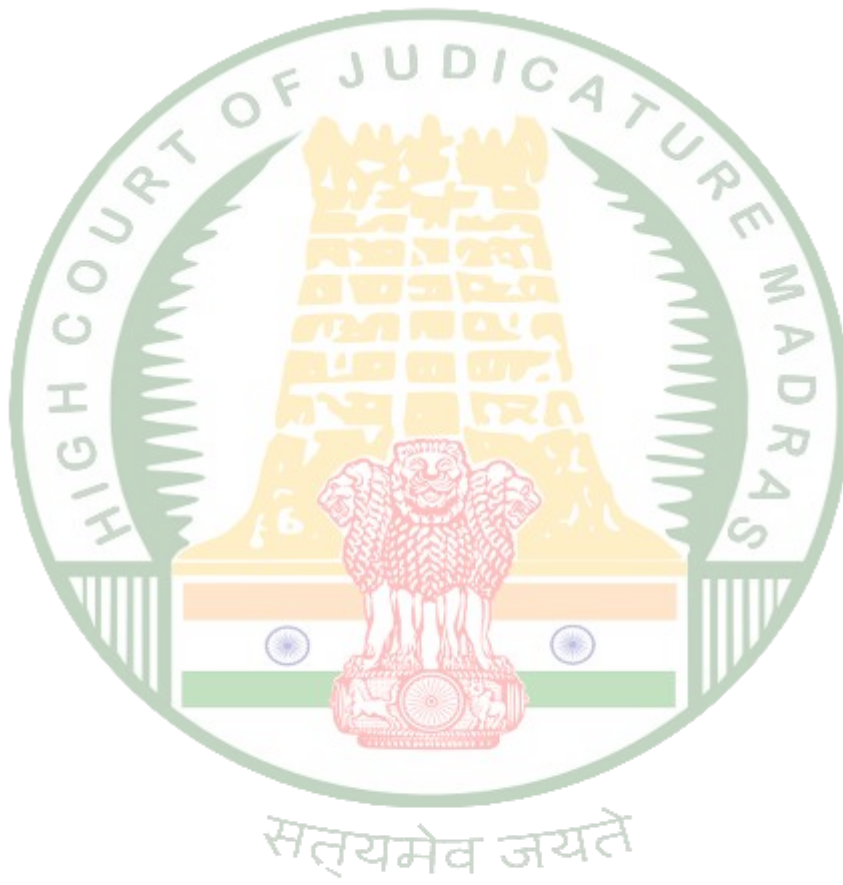
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