

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 14TH DAY OF NOVEMBER 2019

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

A.No.4677 of 2019
in

C.S.No.499 OF 2018

M/s. Greaves Cotton Limited,
Represented by its Authorised Signatory,
Mr.Jayaraman, Son of Sundaram Iyer,
having Regional Office at,
No.30, 2nd Floor,
Anna Salai, Little Mount,
Saidapet, Chennai 600 015.Plaintiff

/Vs./

1.M/s.Savani Transport Pvt. Ltd.,
Represented by its Senior Branch Manager,
Having Zonal Office at,
No.66, Thambu Chetty Street,
Chennai-600 001.

2.M/s.Savani Transports private Limited,
Represented by its Managing Director,
No.809-A, Broadway Centre, 2nd Floor,
Dr.Ambedkar Road,
Dadar (E) Mumbai-400 014.

3.Mr.M.K.Bhatia,
S/o.Kishanalal Bhatia,
Operational Head,
Savani Transports Private Limited,
No.809-A, Broadway Centre, 2nd Floor,
Dr.Ambedkar Road,
Dadar (E) Mumbai-400 014.

4.Mr.Nayant Savani,
S/o.Maritlal Savani,
Managing Director,
Savani Transports Private Limited,
No.809-A, Broadway Centre, 2nd Floor,
Dr.Ambedkar Road,
Dadar (E) Mumbai-400 014.

5.Mr.Hansat Savani,
S/o.Maritlal Savani,
Director,
Savani Transports Private Limited,
No.809-A, Broadway Centre, 2nd Floor,
Dr.Ambedkar Road,
Dadar (E) Mumbai-400 014.

6.Mr.Vivekanthan,
S/o.Subramaniam
Zonal Manager,
Savani Transports Private Limited,
No.66 Thambuchetty Street,
Parrys, Chennai-600 001.

7.Mr.Thiagarajan,
S/o.Rajapushnan,
Senior Branch Manager,
Savani Transports Private Limited,
No.66 Thambuchetty Street,
Parrys, Chennai-600 001.

8.Mr.Anbu @ Anbalagan,
S/o.Elumalai,
Loading Clerk,
Savani Transports Private Limited,
No.66 Thambuchetty Street,
Parrys, Chennai-600 001.

..Defendants

A.No.4677 of 2019:

1.M/s.Savani Transport Pvt. Ltd.,
Represented by its Senior Branch Manager,
Having Zonal Office at,
No.66, Thambu Chetty Street,
Chennai-600 001.

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8.Mr.Anbu @ Anbalagan,
S/o.Elumalai,
Loading Clerk,
Savani Transports Private Limited,
No.66 Thambuchetty Street,
Parrys, Chennai-600 001.

..Applicants/Defendants

Vs.

M/s. Greaves Cotton Limited,
Represented by its Authorised Signatory,
Mr.Jayaraman, Son of Sundaram Iyer,
having Regional Office at,
No.30, 2nd Floor,
Anna Salai, Little Mount,
Saidapet, Chennai 600 015.

...Respondent/Plaintiff

Application praying that this Hon'ble Court be pleased

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to revoke the leave granted under Clause 12 of the Letters
Patent to the Respondent/Plaintiff in Appln.No.5161 of 2018

in C.S.No.499 of 2018 since the suit does not disclose any part of cause of action which arose within the jurisdiction of this Hon'ble Court.

This Application coming on this day before this Court for hearing, the Court made the following order:-

This application has been filed to revoke the leave granted under Clause 12 of the Letters Patent to the respondent/plaintiff in A.No.5161 of 2018 in C.S.No.499 of 2018 by this Court dated 16.07.2018.

2. The main contention of the applicants/defendants in this application is that the entire cause action had arisen at Gummidipoondi and police complaints have been lodged before the Thiruvallur Police and a suit has been filed before the Courts at Thiruvallur and Ponneri. It is further contended that all the letter communications from the respondent/plaintiff to the 1st applicant/1st defendant are only from the factory of the respondent situated at Gummidipoondi, Thiruvallur District. Further the presence of the Zonal office of the first defendant and the regional office of the plaintiff do not confer any cause of action within the jurisdiction of this Court. It is further contended that the 1st defendant / 1st applicant already filed a suit in O.S.No.10 of 2016, before the Additional District Judge, Ponneri, claiming an amount of Rs.43.97 lakhs as freight charges alleged to be payable by the plaintiff's company for the delay charges. Hence, the

applicants prayed for revoking the leave granted.

3. In the counter affidavit filed by the respondent/plaintiff, it is stated that the plaintiff's regional office is situated at Saidapet, Chennai, within the jurisdiction of this Court and the defendants 1, 6, 7 and 8 are having office at Thambuchetty Street, Chennai, within jurisdiction of this Court. The lorry receipts raised only from the first defendant's Chennai office. Based on the bills given by the first defendant the plaintiff used to sanction the bills from its Regional Office, situated at Saidapet, Chennai. By presenting the false lorry receipts, the defendants have received excess amount, which is claimed in the suit by the plaintiff. As such, the main transactions had been taken place in Parrys, Chennai and Saidapet, Chennai, which fall under the jurisdiction of this Court. Hence, prayed for dismissal of the application.

4. Mrs.Nalini Chidambaram, learned Senior Counsel appearing for Mr.N.R.R.Arun Natarajan, learned counsel for the applicants mainly contended that merely because the money was transferred or routed through the Bank at Chennai will not confer the jurisdiction to maintain the suit before this Court. The 1st defendant has already filed a suit before the Additional District Judge, Ponneri, in which the plaintiff has already filed a written statement. Besides, a criminal complaint was also lodged against the defendants

within the jurisdiction of Tiruvallur Courts and a charge sheet has also filed before the Magistrate Court, Tiruvallur. Such being the position, it is the contention of the learned Senior Counsel appearing for the applicants that no cause of action had arisen within the jurisdiction of this Court. Hence, leave granted by this Court is to be revoked.

5. In support of her contention, the learned Senior Counsel has relied upon the following decisions :

- (i) *Tuticorin Alkali Chemicals And .. Vs. Cochin Silicate and Glass : Equivalent citations : (1992) 2 MLJ 376 ;*
- (ii) *Parameswari Veluchamy And 2 Ors. Vs. T.R.Jayaraman And 7 Ors, dated 12.7.2001 ;*
- (iii) *S.Nagaraj Vs. S.Govindaswamy and Anr. dated 7.3.1983 : Equivalent citations : AIR 1984 Mad 212, (1983), IIMLJ 314 ;*
- (iv) *Matrix Laboratories Limited vs F.Hoffman La Roche Ltd, and Others (O.S.A.No.365 of 2011 dated 1.12.2011)*

6. Mr.V.Ragavachari, learned counsel appearing for the respondent/plaintiff submitted that the defendants 1, 6, 7 and 8 are having office within the jurisdiction of this Court and that the contract was originally entered into between the plaintiff and the 1st defendant at Thambuchetty Street, Chennai and all the lorry receipts were issued by

rooted through Bank, situated in Chennai. Therefore, it is the contention of the learned counsel that the suit itself filed for claiming the recovery of excess amount claimed by the defendants. Hence, the contention of the learned counsel is that the entire cause of action had arisen within the jurisdiction of this Court and leave is also rightly granted. Therefore, leave cannot be revoked.

7. In support of his contention, the learned counsel has relied on a decision in the case of **USV Limited, Chennai Vs Systopic Laboratories Limited, and another (O.S.A.Nos.258 and 360 of 2003 and C.M.P.No.11769 of 2003, dated 20.1.2004), reported in 2004 (1) CTC 418.**

8. While considering the application for revoking the leave, whether or not the cause action had arisen within the jurisdiction of this Court, the Court has to look into the pleadings contained in the plaint alone and also the documents filed along with the plaint. No other documents or pleadings of the defendants were available to decide whether or not the entire cause of action had arisen within the jurisdiction of this Court. The first defendant company only situated within the jurisdiction of this Court and the defendants 6, 7 and 8 are residing within the jurisdiction of this Court. The defendants 2, 3, 4 and 5

9. Perusal of the entire plaint pleadings indicates that the first defendant is a private transport company engaged in the business of providing cargo services, including logistics and carrying and forwarding various other services. On 25.11.2008, a contract was entered into between the plaintiff and first defendant, thereafter, the tariff rates were revised on 25.10.2009. It is the further allegation in the plaint that during the internal audit, the plaintiff company found that excess transport charges were paid to the first defendant, which was higher than the other transporters and the plaintiff came to know that the first defendant transport company colluded with the other defendants had conspired together and committed the act of fraud. The 1st defendant company prepared multiple lorry receipts instead of making one bill for one vehicle covering all the lorry receipts/invoices despatched in a single truck in order to make extra billing. It is the specific case that the first defendant Transport Company prepared multiple transport bills for each lorry receipt as though multiple trucks have been engaged. Therefore, it is their contention a fraud was committed by the first defendant by raising lorry receipts and claimed extra amount and thereby they have received a payment of Rs.3,11,96,357/-.

10. The documents filed along with the plaint would

reveal that the agreements dated 25.11.2008 and 25.10.2009 were signed by the first defendant at Chennai, within the jurisdiction of this Court and all the receipts are raised by the first defendant for excess billing at Chennai. Merely because the cargos have been transported outside the jurisdiction of this Court, it cannot be stated that the cause of action did not arise to maintain the suit. The very allegations contained in the suit indicates that the first defendant company prepared multiple lorry receipts instead of making one bill for one vehicle covering all the lorry receipts/invoices by committed fraud. That the contract itself entered into between the plaintiff and the first defendant at Chennai and their office is situated at Chennai. The allegations contained in the plaint that the first defendant raised fabricated bills assume to be a true, it cannot be stated that there is no cause of action had arisen before this Court. Merely because a criminal complaint has been lodged at Tiruvallur as against the defendants cannot be stated that there is no cause of action to maintain the suit before this Court. It is also relevant to note that during the submissions of the learned counsel on either side it is pointed out by the learned Counsel appearing for the plaintiff that all payments were received by the defendants routed through the Bank, which is situated within the jurisdiction of this Court. However, the same was refuted by the learned counsel for the defendants.

11. This Court by order dated 04.11.2019 directed the defendants to file a counter affidavit, whether the first defendant received any payment at its account held in Bank of India, Chennai Branch from the respondent/plaintiff and in response to the above direction an affidavit has been filed, which reads as follows :

".....

3. The Applicant states that the 2nd Applicant which is based in Mumbai is the account holder in A/c No.800020110000771 held in Bank of India, Chennai Branch. The respondent/plaintiff filed an additional typed set on 21.09.2019 containing the statement of account in A/c.No.00040430001224 held in HDFC Bank at 759, ITC Centre, Anna Salai, Opp TVS, Chennai. A perusal of the statement of accounts would show that M/s.Greaves Cotton Limited, which is the factory having office at agriculture equipment limited, F-62 and F-63 Sipcot Industrial Estate, Gummidipoondi, Thiruvallur District is the Account Holder for the account in A/c.No.00040430001224 held in HDFC Bank at 759, ITC Centre, Anna Salai, Opp TVS, Chennai.

4. The payments towards the freights charges were paid by M/s.Greaves Cotton Factory located at Gummidipoondi from its HDFC bank account to the 2nd Applicant's bank account in A/c.No.800020110000771 held in Bank of India, Chennai Branch. It is relevant to state that the respondent/plaintiff having office at Chennai has not made any payments to

the 1st Applicant having office at Chennai, towards the freight charge and all the payments were made by the Greaves Cotton Ltd., Gummidipoondi. The 2nd Applicant having office at Mumbai was the account holder in Bank of India, Chennai branch in account holder in A/c.No.800020110000771. Therefore, the 1st Applicant has not received any payment from the plaintiff at Chennai or from Greaves Cotton Ltd., Gummidipoondi."

12. On a careful perusal of the above affidavit it would indicate that the payments were routed through the Bank situated in Chennai. The bills for lorry receipts are received from the first defendant office, which is situated in Chennai. Merely because the factory is situated outside the jurisdiction of this Court. It cannot be stated that there is no cause of action arisen within the jurisdiction of this Court. It is yet another contention of the learned Senior Counsel appearing for the plaintiff that while obtaining the leave it was stated that the entire cause of action arisen within the jurisdiction of this Court. In the counter affidavit filed by the applicants it has been stated that a part of cause of action had arisen within the jurisdiction of this Court. Therefore, leave was not granted in accordance with law.

13. In such circumstances, I am of the view that the arguments of the learned counsel for the applicants cannot be countenanced for the simple reason that the leave can be

granted under Clause 12 of the Letters Patent when the cause of action partly arose within the jurisdiction of this Court. According to the learned counsel, the suit has been already filed by the 1st defendant in O.S.No.10 of 2016 before the Additional District Judge, Ponneri, the plaintiff has also filed their written statement. Admittedly, the 1st defendant, who entered into contract with the plaintiff to carry on the business at Thambuchetty Street, Chennai, within the jurisdiction of this Court. The defendants 6, 7 and 8 are also in the same address.

14. For the above reasons, I do not find any merit in the application. Accordingly, the application stands dismissed.

Sd./-N.S.K.J
14/11/2019

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

jj 27/11/2019

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