

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 01ST DAY OF OCTOBER 2019

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A. No.7419 of 2019

in

C.S.Diary No.102199 of 2019

M/S.AWESOME BUILDERS (P) LTD
 REP.BY ITS DIRECTOR MR.HITESH KANODIA
 HAVING ITS REGISTERED OFFICE AT NO.6,
 AE BLOCK 7TH STREET, 10TH MAIN ROAD,
 ANNA NAGAR, CHENNAI 600 040. ...APPLICANT/PLAINTIFF

-VS-

M.KISHORE KUMAR
 S/O.LATE P.MOHANLAL NO.34/1,
 DURAISAMY PILLAI STREET, WEST TAMBARAM,
 CHENNAI - 600 045,

ALSO HAVING BUSINESS
 AT M/S.THUNDER LIGHTS,NO.87,
 GST ROAD, TAMBARAM WEST,
 CHENNAI-600 045. ...RESPONDENT/DEFENDENT

Application praying that this Hon'ble Court be pleased to grant leave to the Applicant/Plaintiff to initiate the above suit against the Respondent/Defendant in this Hon'ble Court.

This Application coming on this day before this court for hearing the court made the following order:

The above Application has been filed seeking to grant leave to the applicant/plaintiff to institute the above suit against the respondent/defendant before this Court.

2. The suit has been filed by the applicant for the following reliefs:

(a) directing the defendant to pay the plaintiff a sum of Rs.2,44,78,837.00 (Rupees Two Crore Forty Four Lakhs Seventy Eight Thousand Eight Hundred and Thirty Seven only) together with interest @ 2% per month on Rs.2,11,73,829/-

(Rupees Two Crore Eleven Lakhs Seventy Three Thousand Eight Hundred and Twenty Nine only) from the date of plaint till the date of realization; and

(b) direct the defendant to pay the plaintiff the costs of the suit.

3.1. It is the case that the applicant is a Company carrying on business in development of immovable property. In the course of business, the applicant developed the property comprised in S.No.750/5A, Korattur Village measuring an extent of 43 cents bearing Door No.243, Red Hills Road, Kallikuppam, Chennai - 600 053 which belonged to Sri Hithesh Kaanodia (Erstwhile name Hitesh Kanodia), Sri Pravin Kumar Gupta, Sri Arvind Kumar Gupta, Smt.Pallavi Jain and Smt.Sandhya Jain. They had entered into a Joint Development Agreement on 01.11.2011, for development of the said property with the applicant. Pursuant to the said Joint Development Agreement, the applicant put up their first project of construction under the name "AWESOME'S ORCHARD".

3.2. While so, the respondent agreed to purchase six flats viz., Flat No.9A, 9B, 9C, 9D, 9E and 9F in the project AWESOME'S ORCHARD constructed in the suit schedule property from the applicant. Accordingly, the respondent and the plaintiff had entered into six construction agreements, dated 23.01.2013. The respondent undertook to pay the total consideration of Rs.3,31,43,552/- towards the cost of the flat and the undivided share of land, under the said six construction agreements. However, the respondent failed to pay the same. Upto 07.04.2016, the respondent had paid only a sum of Rs.65,75,000/-.

3.3. In February, 2016, the respondent approached the applicant for extension of time for payment of the monies and also for some reduction in price and incentive for early payment as per the re-schedulement. Hence, the applicant and the respondent had entered into a Memorandum

of Understanding on 22.02.2016. In spite of the same, the respondent failed to pay the amounts due. After repeated requests, the respondent paid a sum of Rs.2,06,50,000/- till date as against the total consideration of Rs.3,25,11,630/-.

3.4. On 07.06.2017, the applicant issued a Demand Notice to the respondent calling upon him to pay the sum of Rs.1,18,61,630/- together with interest of Rs.12,74,717/- in all amounting to Rs.1,31,36,317/-, for which, there was no response from the respondent. Thereafter, the applicant issued a Notice dated 24.01.2019, to the respondent demanding a sum of Rs.2,11,73,829/- which was due and payable on the said date. However, the applicant's efforts were went in vain. Therefore, left with no other alternative, the applicant has filed the present suit for the reliefs stated *supra*.

4.1. The learned counsel for the applicant fairly submitted that the applicant is carrying on its business and having its Office at Chennai, wherein, the aforesaid six construction agreements dated 23.01.2013, were entered into between the applicant and the defendant. He further submitted that the respondent is having his residence and office outside the territorial jurisdiction of this Court.

4.2. The learned counsel for the applicant would contend that the major part of cause of action of the suit has arisen at Chennai since the entire suit transaction has taken place within the jurisdiction of this Court. He therefore prayed that the present Application may be allowed.

5. Heard the learned counsel for the applicant.

6.1. After a perusal of the affidavit filed in support of this Application, this Court found that the major part of cause of action of the suit has arisen at Chennai which is well within the jurisdiction of this Court and also found that the respondent is residing outside the

jurisdiction of this Court.

6.2. Considering the submissions made by the applicant's counsel and also having been convinced with the reasons stated in the affidavit filed in support of the Application, this Court is inclined to allow the present Application. Accordingly, this Application is ordered as prayed for.

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

Sd/.N.S.K.J.

01.10.2019

//Certified to be a true copy//

Dated this the day of 2019.

SU/16.10.2019

COURT OFFICER

.From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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