

A.No.149 of 2021
in C.S.No.166 of 2020

G.JAYACHANDRAN, J.

This Application is taken out by the defendant questioning the maintainability of the suit before the Commercial Division.

2. According to the defendant the allegation made in the plaint doesn't fall within the definition of Section 2(1)(c)(xviii) of the Commercial Courts Act, 2015. There is no documents produced by the plaintiff to substantiate their statement that the dispute falling within the meaning of sub-clause (xviii) of Section 2(1)(c) of the Commercial Courts Act, 2015.

3. According to the Learned Counsel appearing for the applicant, the provision of the act clearly specify that the dispute should arise on an “agreement for sale of goods or provision of services” to classify the dispute as a commercial dispute. Whereas, no documentary evidence has been produced by the plaintiff to support the contention of the plaintiff that the instant dispute falls within the ambit of Section 2(1)(c)(xviii) of the Commercial Courts Act, 2015.

4. Per contra, the Learned Counsel appearing for the plaintiff would submit that in the plaint, it has been specifically averred that during the year 2015, the defendants 2 to 7 requested the plaintiff to provide advance towards supply of iron and steel products in the name of the 1st defendant (present applicant). The plaintiff has agreed for the said request and transferred a sum of Rs.7,13,00,042/- to the defendants 2 to 7. The payments to the 1st defendant is vouchsafed through the copy of the ledger account of the plaintiff for the relevant period and bank statement for the relevant period. Since, the money was transferred for the purchase of goods and the agreement is an oral agreement, the suit falls within the jurisdiction of the Commercial Courts is defined under Section 2(1)(c)(xviii).

“To be noted that the suit has been struck off against these defendants pursuant to the order passed by this Court on 23.12.2020), in which, in paragraph No.18 has observed that, “A perusal of the averments in the plaint shows that there has been only one series of transactions as between the plaintiff and the first defendant. Therefore, the plaintiff has a cause of action as against the first defendant.”

5. For determination of jurisdiction, the statement found in the plaint is relevant. In this case, the transfer of money into the applicant's account is borne by the bank account and ledger account maintained by the plaintiff. Thus, prima facie case is made out regarding the transaction though there is no written agreement to that effect and whether this transaction is for sale of goods as alleged in the plaint or not is a matter for trial, being a question of fact. Having prima facie made out a case to show the *lis* falls within the definition of Commercial dispute, the jurisdiction of the Court is well found. Hence, this ***Application No.149 of 2021 is dismissed.***

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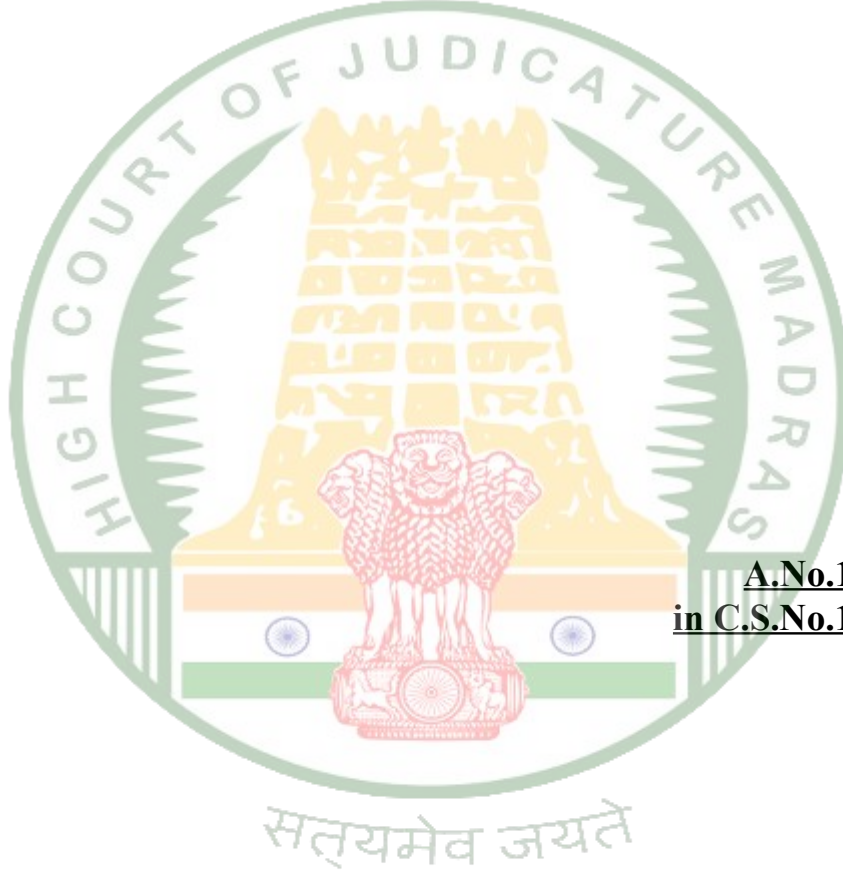
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DR.G.JAYACHANDRAN, J.

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