



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.NOS.307 & 309 OF 2019

AND

C.M.P.NO.2268 OF 2019

M/s.Chennai Ex-servicemen Security
& Detective Services Pvt. Ltd.,
Represented by its Director,
Mr.S.Murugan,
Having office at
New No.52/1, Old No.14/3,
Ramasamy Raja Stret,
Arumbakkam, Chennai - 600 106.

... Petitioner/Plaintff
(in both Petitions)

.Vs.

M/s.Balsara Engineering Products Ltd.,
Rep. by its Managing Director,
D.Jeetendra Bhandari,
SF/273, 16th KM Mile Stone,
Kavaraipettai - Sathyavedu Road,
Vaaniyamalli Village,
Thanipoondi, Gummidipondi Taluk,
Thiruvallur District - 601 202.

... Respondent/Defendant
(in both Petitions)

COMMON PRAYER:-

Civil Revision petitions are filed under Article 227 of Constitution of India against the order and decreetal order dated 03.10.2018 passed in I.A.No.4155 of 2018 in O.S.No.1582 of 2018 and I.A.No.138 of 2018 in I.A.No.4155 of 2018 in O.S.No.1582 of 2018 respectively, on the file of XV Additional Judge, City Civil Court at Chennai.

For Petitioner : M/s.R.Ramya
(in both Petitions)

For Respondent : Mr.P.G.Thiyagu
For M/s.I.Mohamed Faras
(in both Petitions)



COMMON ORDER

CRP.No.307 of 2019 has been filed against the order passed in I.A.No.4155 of 2018 in O.S.No.1582 of 2018, on the file of the learned XV Additional Judge, City Civil Court, Chennai.

2. CRP.No.309 of 2019 has been filed against the order passed in I.A.No.138 of 2018 in I.A.No.4155 of 2018 in O.S.No.1582 of 2018, on the file of the learned XV Additional Judge, City Civil Court, Chennai.

3. Learned counsel for the Petitioner submitted that the Petitioner filed Suit in O.S.No.1582 of 2018 against the Respondent for recovery of money to the tune of Rs.17,83,992/-. The Petitioner also filed I.A.No.4155 of 2018 under XXXVIII Rule 5 of CPC to direct the Respondent to furnish security for the said claim within a time fixed by the Court, failing which, to attach the movables mentioned in that Petition. Therefore, on 21.03.2018, the learned XV Additional Judge, City Civil Court, Chennai, directed the Respondent to furnish the security for a sum of Rs.17,00,000/- on or before 28.03.2018. Since security was not furnished, on 28.03.2018 attachment was ordered. Order dated 10.07.2018 of the Court below reveals that security was furnished and order dated 03.10.2018 of the Court below reveals that security was furnished by way of indemnify bond, and I.A.No.4155 of 2018 in O.S.No.1582 of 2018 was closed.

4. The learned counsel for the Petitioner submitted that the Respondent filed security for avoiding attachment of property under order XXXVIII Rule 5 of CPC, describing schedule of property, but without producing the document. When the copy of the document is not furnished, the security bond of the respondent is not proper sufficient. However, without considering the objections of the Petitioner, the learned XV Additional Judge, City Civil Court, Chennai, closed I.A.No.4155 of 2018 in O.S.No.1582 of 2018 on the ground that security was furnished and allowed I.A.No.138 of 2018 which was filed for raising the attachment order. Against both the orders, these CRPs are filed. Mere filing of security bond without any supporting documents to give confidence that the property mentioned in the security bond belongs to the Respondent is not sufficient. Moreover, order of raising the attachment is cryptic one line order without recording any reasons. Therefore, the learned counsel for the Petitioner pressed for setting aside the order of the Court below and sought for directions to the Respondent to produce cash security or other acceptable security matching the value of the suit claim, else prayed for attachment of the Petition mentioned property before judgment.



5. Learned counsel for the Respondent submitted that sufficient security was given and that is enough and prayed for dismissal of these Petitions.

6. Considered the rival submissions and perused the records. From the submissions made by the learned counsel for the Petitioner and perusal of records, it is evident that Suit was filed for recovery of Rs.17,83,992/-, Petition for attaching the movable properties before judgment was also filed. Security bond was filed in a paper without any supporting documents. The learned XV Additional Judge, City Civil Court, Chennai, satisfying with the security documents, closed the Petition and raised the attachment. It is seen that both the orders are not speaking orders but a cryptic order. Submissions of the parties were not considered before passing the one line order. Therefore, this Court set aside the orders passed in I.A.No.138 of 2018 and in I.A.No.4155 of 2018 and remit the matter to the learned XV Additional Judge, City Civil Court, Chennai for considering the submissions of both the parties and to pass a detailed order with regard to the satisfaction of the security furnished by the Respondent.

7. Accordingly, these Civil Revision Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

The XV Additional Judge,
City Civil Court,
Chennai.

+1cc to M/s.R.Ramya, Advocate, S.R.No.53569

C.R.P.NOS.307 & 309 OF 2019 AND
C.M.P.NO.2268 OF 2019

RSV(CO)
PBS/02/11/2021
PBS/16/11/2021