



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 3rd DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A.No.968 of 2021

in

C.S.No.480 of 2013

M/s.Five Star Marine Exports Private Limited
Represented by its Managing Director
Mr.K.Eravikumar
No.70 (Old No.55) Venkatesa Street,
Chintadripet, Chennai 600 002.

..Plaintiff

-Versus-

1.Sea Wealth Products Inc.
Represented by its President
Mr.Paul Morris Faustin,
100, S.Electric Ave,
Alhambra, CA 91801, USA.

2.Mr.Paul Morris Faustin,
President Sea Wealth Products Inc.
100, S.Electric Ave, Alhambra, CA 91801, USA.
Currently residing at Nalathil House,
Neendakara Post, Karunagapally Village,
Quilon Taluk, Kollam District, Kerala-691 582.

3.Umang Sodagar,
Manager-Sales and Accounting,
M/s.Sea Wealth Products,
202, Akansha Building, Opposite Vadilal House,
46 Srimali Society, Navrangpura,
Ahmedabad-380009.(Gujarat)

..Defendants



A.No.968 of 2021:-

WEB COPY

Mr.Umang Sodagar,
Manager-Sales and Accounting,
M/s.Sea Wealth Products,
202, Akansha Building,
Opposite Vadilal House,
46,Srimali Society, Navrangpura,
Ahmedabad-380009.(Gujarat)

..Applicant/3rd Defendant

Vs

M/s.Five Star Marine Exports Pvt. Limited
Represented by its Managing Director
Mr.K.Eravikumar
No.70 (Old No.55) Venkatesa Street,
Chintadripet, Chennai 600 002.

.. Respondent/Plaintiff

Application praying that this Hon'ble Court be pleased to strike out of the name of the 3rd Defendant in the abvoe suit.

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

This application has been filed by the 3rd defendant in the suit seeking to strike him out from the array of parties.

2.The applicant would claim that he was only a paid employee of the 1st defendant and he only acted on the instructions of the 2nd defendant, who is the President of the 1st defendant and as such, he cannot be made personally liable for whatever transactions that had taken place between the plaintiff and the defendants 1 and 2.



3. This application is opposed by the respondent / plaintiff contending that it was the 3rd defendant, who was the face of the 1st defendant in India and all transactions were carried out only through the 3rd defendant and therefore, the 3rd defendant is also personally liable. As an alternative argument, the learned counsel appearing for the plaintiff / respondent would submit that since all the transactions had taken place through the 3rd defendant, the 3rd defendant would at least be a proper party, if not a necessary party, and his evidence will be a very material in the trial of the suit.

4. In order to ensure that the 3rd defendant co-operates with the trial of the suit, I had directed the 3rd defendant to file an affidavit undertaking that he would co-operate with the trial of the suit, even if he is struck off from the array of parties. The 3rd defendant had expressed his inability to file an affidavit. I therefore, conclude that if the 3rd defendant name is struck off from the array of parties, he will, definitely, not co-operate with the trial thereby, causing serious prejudice to the plaintiff. Hence, this application is dismissed.

Sd./-RSMJ

03.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

JJ 17/08/2021