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A.No.4210 of 2019
in CS No.379 of 2019

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ABDUL QUDDHOSE, J.

The suit has been filed for recovery of a sum of Rs.2,18,87,380/-(Rupees Two crores eighteen lakhs eighty seven thousand three hundred eighty only) together with interest and cost in respect of goods sold and delivered by the plaintiff to the first respondent/first defendant. The plaintiff has supplied chemicals to the first respondent between 15.09.2015 and 07.11.2017 for a total value of Rs.1,36,39,280/-(Rupees one crore thirty six lakhs thirty nine thousand two hundred eighty only).

2. Supplies have been duly acknowledged by the respondents/defendants and the defendants have also executed confirmation of balance on 01.04.2018 in favour of the plaintiff admitting that as on 31.03.2018, a sum of Rs.1,32,35,434/-(Rupees One crore thirty two lakhs thirty five thousand four hundred thirty four only) is due and payable by the defendants to the plaintiff.



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3. A legal notice was also issued by the plaintiff on 12.11.2018 prior to the institution of the suit, which has been duly acknowledged by the defendants and no reply has been sent by the defendants. Even before this Court, though counter affidavit has been filed in this application, seeking for attachment of the properties owned by the defendants, the defendants have only sought time to make the payment.

4. Several opportunities were granted for reporting settlement of the matter. But till date, no settlement has been taken place.

5. Learned counsel for the plaintiff also submits that there is no possibility of settlement as the defendants are indebted to various creditors and alienating their properties one by one.

6. An Additional counter affidavit has been filed by the respondents/defendants before this Court on 26.07.2021. In paragraph No.7 of the said affidavit, the respondents/defendants have stated that Schedules B, C,D,E,G, J



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and K mentioned in the Schedule to the Judges Summons, owned by the respondents/defendants, would fetch Rs.19.50 crores and the defendants have given an undertaking that they shall not alienate those properties pending disposal of the suit.

7. In respect of the portion of Schedule "A", "F", "H" and "I", measuring 8 acres and 62 cents have been sold by the respondents/defendants as seen from the additional counter affidavit.

8. This Court is of the considered view that the undertaking given by the respondents/defendants that they will not alienate the Schedules B, C,D,E,G, J and K properties pending disposal of the suit will not suffice as the suit claim is more than Rs.2 crores and unless and until in the encumbrance certificate a disclosure is made with regard to the order passed by this Court against the subject properties, no useful purpose will be served if an undertaking given by the respondents/defendants is alone recorded by this Court.



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9. Hence, this Court is of the considered view that the properties viz., B, C,D,E,G, J and K in the Schedule to the Judges Summons should be attached by the order of this Court, pending disposal of the suit and it should be reflected in the Encumbrance Certificate.

10. For the foregoing reasons, this Court orders attachment of properties viz., B, C,D,E,G, J and K in the Schedule to the Judges Summons .

11. Registry is directed to intimate the concerned Sub Registrar's office about the the order of attachment passed by this Court with regard to the properties properties viz., B, C,D,E,G, J and K in the Schedule to the Judges Summons .

12. In terms of the above direction, A.No.4210 of 2019 is disposed of.

14.12.2021

sr/rgi

ABDUL QUDDHOSE, J.

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