

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

O.S.A.(CAD) No.49 of 2021

Tamil Nadu Transmission Corporation Ltd.,
rep. By its Chief Engineer/Transmission,
No.144, Anna Salai, Chennai 2 ... Appellant

Vs.

M/s.GET & D India Ltd.,
rep by its authorized representative,
19/1 Great Southern Trunk road,
Pallavaram, Chennai 43 .. Respondent

Appeal filed against the order and decretal order dated
29.04.2021 in A.No.1151 of 2021 in C.S.No.108 of 2021.

For Appellant : Mr.R.Shunmugasundaram,
Advocate-General,
assisted by
Ms.J.Hemalatha Gajapathy

For Respondent : Ms.Aprajitha Vishwanath

J U D G M E N T

(made by the Hon'ble Chief Justice)

The primary ground that appeals to the Court is the complete lack of reasons in the order impugned dated April 29, 2021 passed in a money suit.

2. It is possible that the appellant herein may have attempted to dodge the court or delay the inevitable; however, merely because of such perceived conduct, an order for furnishing security could not have been issued without indicating the basis of the claim, the unimpeachable nature thereof and the possibility of the plaintiff not being able to realise the amount at a later date when the suit would ripen for hearing and a decree may be passed thereafter.

3. The order impugned requires security to be furnished of value of Rs.27,47,69,391/-.

4. It is elementary that before an order for security is passed, two aspects must be looked into: the unimpeachable nature of the claim and the possibility of the defendant not having adequate assets to satisfy the claim. Such aspects of the matter have not been alluded

to at all in the order impugned.

5. In view of the long line of cases requiring even an exparte ad-interim order to indicate some modicum of reasons, final interlocutory order for furnishng security ought to indicate the basis therefor. Reasons are the lifeblood of any judicial order and they indicate how the judicial mind is impelled to pass the order on the basis of the facts and against the backdrop of the applicable law. Since the order impugned is completely bereft of reasons, the same cannot be accepted or continued.

6. O.S.A.(CAD) No.49 of 2021 is allowed by setting aside the order dated April 29, 2021 and by restoring the relevant application before the board of the trial court for the same to be considered afresh in accordance with law, uninfluenced by the order impugned herein. Consequently, C.M.P.No.12295 of 2021 is closed. There will be no order as to costs.

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(S.B., C.J.) (P.D.A., J.)
12.08.2021

Index : yes/no
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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU, J.

(tar)



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