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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 17TH DAY OF MARCH 2021

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

C.S.No.230 of 2020

and

A.No. 878 of 2021

R. Krishnamurthy & Co.,
Engineering Contractors,
A Partnership Firm,
Represented by its Managing Partner,
R. Krishnamurthy,
having its registered office
at Sapthamlika Apartments,
2E, Front Block, No.283, Old No.188/B,
PH Road, Kilpauk, Chennai - 600 010.

... Plaintiff / Applicant
in O.A. No. 410 of 2020

Vs.

1. RMD Kwikform India Pvt., Ltd.,
Registered Office at
No.407/A6, Ansal Chamer - II,
Bhikaji Cama Place,
New Delhi -110 066.
And also
Branch Office at
Door No.28/2, First Floor,
AMG Towers, Lawyer Jagannathan Street,
GST Road, Alandur, Chennai - 600 016,
India.

2. The Chief Manager/Asst. General Manager,
Bank of Baroda, Mount Road Branch,
Chennai - 600 002.

3. HDFC Bank Ltd.,



Kaithotta House,
New No.5, Sait Colony, First Street,
Chennai - 600 008, Tamil Nadu.

... Defendants / Respondents
in O.A. No. 410 of 2020

Civil Suit praying that this Hon'ble Court be pleased to pass a judgment and decree in favour of the Plaintiff against the 1st defendant as follows:-

a) To declare that the bank guarantees bearing No.0528IGFIN000519 for the sum of Rs.1,67,00,000/- dt. 19/08/2019 furnished by the palintiff through the 2nd defendant in favour of the 1st defendant shall continue and hold good until the completion of project of Phoenix Structure Amma Memorial at Marina, PWD Site, RajajiSalai, Chennai -600005.

b) To declare that the bank guarantees bearing No.0528IGFIN000619 for the sum of Rs.1,00,00,000/- dt. 03/10/2019 furnished by the plaintiff through the 2nd defendant in favour of the 1st defendant shall continue and hold good until the completion of project of Phenix Structure Amma Memorial at Marina, PWD Site, RajajiSalai, Chennai -600005.

c) For permanent injunction restraining the 1st defendant, its authorised signatories, representatives or any other persons claiming under it from encashing the bank guarantees bearing No.0528IGFIN000519 for the sum of Rs.1,67,00,000/- dated 19/08/2019 and No.0528IGFIN000619



for the sum of Rs.1,00,00,000/- dated 03/10/2019 furnished by the plaintiff
in favour of the 1st defendant through 3rd defendant herein;

d) To direct the 1st defendant to pay the cost of the suit.

O.A. 410 of 2020:

Original Application praying that this Hon'ble Court be pleased to grant an order of ad interim injunction restraining the 1st respondent/1st defendant its authorized signatories, representatives or any other persons claiming under it from encashing the bank guarantees bearing No.05281GFIN000519 for the Sum of Rs.1,67,00,000/- dated 19/08/2019 and bearing No.05281GFIN000619 for the sum of Rs.1,00,00,000/- dated 03/10/2019 furnished by the applicant in favour of the 1st respondent/1st defendant through 3rd respondent/3rd defendant herein pending disposal of the above suit.

A.No. 878 of 2021

RMD Kwikform India Pvt. Ltd.,
Registered Office at
No.407/A6, Ansal Chamer - II,
Bhikaji Cama Place,
New Delhi -110 066.
And also
Branch Office at
Door No.28/2, First Floor,
AMG Towers, Lawyer Jagannathan Street,
GST Road, Alandur, Chennai - 600 016,
India.

... Applicant



1.R. Krishnamurthy & Co.,
Engineering Contractors,
A Partnership Firm,
Represented by its Managing Partner,
R. Krishnamurthy,
having its registered office
at Sapthamluka Apartments,
2E, Front Block, No.283, Old No.188/B,
PH Road, Kilpauk, Chennai - 600 010.

2. The Chief Manager/Asst. General Manager,
Bank of Baroda, Mount Road Branch,
Chennai - 600 002.

3. HDFC Bank Ltd.,
Kaithotta House,
New No.5, Sait Colony, First Street,
Chennai - 600 008, Tamil Nadu.

... Respondents

Application praying that this Hon'ble Court be pleased to Vacate
the Interim Injunction granted by this Hon'ble Court in O.A.NO.410/2020 in
C.S.(comm.div) No.230/2020, dated 28/10/2020.

This suit along with these Applications coming on this day before
this court for hearing in the presence of Mr. A. Suresh Selvakumar,
Advocate for the plaintiff in C.S.No. 230 of 2020 and for the 1st respondent
in A.No. 878 of 2021 and Ms.D. Hemavathy, Advocate for the 1st defendant
in C.S.No. 230 of 2020 and for the Applicant in A.No. 878 of 2021 and
Mr.Mohan Subramanian, Advocate for the 2nd defendant in C.S.No. 230 of
2020 and for the 2nd respondent in A.No. 878 of 2021 and Mrs.Rexi
Josephine Mary for M/s.King and Patridge, Advocate for the 3rd defendant
in C.S.No. 230 of 2020 and for the 3rd respondent in A.No. 878 of 2021 and



upon reading the plaint filed in C.S.No. 230 of 2020 and the Judges Summons and the affidavit of Sreedharan Sampath filed in A.No.878 of 2021 an a memo dated 19.02.2021 signed by the plaintiff with their respective Advocates and the said advocates for the parties hereto and the plaintiff having stated that the suit may be dismissed as withdrawn, it is ordered as follows:-

That the suit in C.S.No. 230 of 2020, be and is hereby dismissed as withdrawn.

2) That the O.A.No. 410 of 2020 and A.No. 878 of 2021 do stand closed.

3) That there shall be no order as to costs of this suit.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
17TH DAY OF MARCH 2021.

Sd/-

ASSISTANT REGISTRAR (Comm. Cases)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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C.S.No.230 of 2020
and
A.No. 878 of 2021

ORDER

DATED:17.03.2021

THE HON'BLE MR.JUSTICE
C.V.KARTHIKEYAN

FOR APPROVAL: 14/07/2021

APPROVED ON: 20/07/2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.S.No. 230 of 2020
and A.No.878 of 2021

R. Krishnamurthy & Co.,
Engineering Contractors,
A Partnership Firm,
Represented by its Managing Partner,
R. Krishnamurthy,
having its registered office
at Sapthamlika Apartments,
2E, Front Block, No.283, Old No.188/B,
PH Road, Kilpauk, Chennai - 600 010.
Plaintiff

...

Vs.

1. RMD Kwikform India Pvt., Ltd.,
Registered Office at No.407/A6,
Ansal Chamer - II,
Bhikaji Cama Place,
New Delhi -110 066.
And also
Branch Office at
Door No.28/2, First Floor,
AMG Towers, Lawyer Jagannathan Street,
GST Road, Alandur, Chennai - 600 016,
India.

2. The Chief Manager/Asst. General Manager,
Bank of Baroda, Mount Road Branch,
Chennai - 600 002.



3. HDFC Bank Ltd.,
Kaithotta House,
New No.5, Sait Colony, First Street,
Chennai - 600 008, Tamil Nadu.
Defendants

...

Prayer:

Civil Suit is filed under Order IV, Rule 1 of Madras High Court Original Side Rules r/w Order VII, Rule 1 of CPC., r/w Section 7 of Commercial Courts, Commercial Division and Commercial Division of the High Courts Act, 2015, (a) to declare that the bank guarantees bearing No.0528IGFIN000519 for the sum of Rs.1,67,00,000/- dated 19.08.2019 furnished by the plaintiff through the 2nd defendant in favour of the 1st defendant shall continue and hold good until the completion of project of Phoenix Structure Amma Memorial at Marina, PWD Site, Rajaji Salai, Chennai - 600 005;

(b) for permanent injunction restraining the 1st defendant, its authorised signatories, representatives or any other persons claiming nunder it from encashing the bank guarantees bearing No.0528IGFIN000519 for the sum of Rs.1,67,00,000/- dated 19.08.2019 and No.0528IGFIN000619 for the sum of Rs.1,00,00,000/- dated 03.10.2019 furnished by the plaintiff in favour of the 1st defendant through 3rd defendant herein;

(c) to direct the 1st defendant to pay the cost of the suit.



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For Plaintiff: Mr.A. Suresh Selvakumar

For D1 : Ms.D.Hemavathy

For D2 : Mr.Mohan Subramanian

For D3 : Mrs.Rexi Josephine Mary

For M/s.King and Patridge

J U D G M E N T

A memo had been filed by the learned counsel for the plaintiff dated 19.02.2021 which had been filed in the Court on 25.02.2021. A copy had also been served on the learned counsel for the 1st defendant. The relevant portion of the said memo in Paragraph No.2, which is extracted below:-

"2. While pending the above suit, the subject matter of the suit has been amicably settled between the plaintiff and the contesting 1st defendant out of court and thus it impel me to file this Memo before this Court to record the factum of suit claim has been settled between the parties and nothing more survives in the above suit.

Therefore, under these circumstances, it is humbly prayed that this Court may be pleased to record this Memo in the above C.S.No.230 of 2020 as accordingly and dismiss teh above suit as withdrawn and pass such further or other orders as this Court



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may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Chennai on this 19th day of February, 2021.

Counsel for Plaintiff

Plaintiff"

This Memo has been signed, quite apart from the learned counsel for the plaintiff, by also the Managing Partner of the plaintiff.

2. Heard Ms.D.Hemavathy, learned Counsel for the 1st defendant and Mr.Mohan Subramanian, learned Counsel for the 2nd defendant and Mrs.Rexi Josephine Mary for M/s.King and Patridge, learned Counsel for 3rd defendant.

3. In view of the fact that the plaintiff had stated that the suit may be dismissed as withdrawn, the suit is dismissed as withdrawn. No order as to costs. Consequently, all connected applications are closed.

Sd./-C.V.K.J.

17/03/2021

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Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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