



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Tuesday, the Seventh day of December Two Thousand Twenty One

PRESENT

THE HON`BLE MR.JUSTICE S.S.SUNDAR

CMP.No.16013 of 2021

in AS.No.910 of 2018

1 M/S.EPSON INDIA PRIVATE LIMITED., [PETITIONERS]
REP BY SUBROGEE / POWER AGENT,
M/S.NATIONAL INSURANCE COMPANY LIMITED.,
DIVISIONAL OFFICE NO.3,
SHRI LAKSHMI COMPLEX,
15-17-19, ST. MARK'S ROAD,
BANGALORE 560001.

2 M/S.NATIONAL INSURANCE COMPANY LIMITED.,
DIVISIONAL OFFICE NO.3, SHRI LAKSHMI COMPLEX,
15-17-19, ST. MARK'S ROAD, BANGALORE 560001.

Vs

M/S.BLUE DART EXPRESS LIMITED., [RESPONDENT]
NEW NO.11, STERLING ROAD,
NUNGAMBAKKAM, CHNNAI 600 034.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased To permit the second petitioner / second plaintiff M/s.National Insurance Company Ltd., to withdraw the amount of Rs.7,55,178/- deposited by the respondent herein to the credit of the suit OS No.820 of 2017 on the file of the 16th Additional Judge, City Civil Court, Chennai (in CMP.No.16013 of 2021).

Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.NAGESWARAN AND NARICHANIA, Advocate for the petitioner and of M/S.S.RAMASUBRAMANIAM, Advocate for the Respondent, the court made the following order:-

(1)The above Civil Miscellaneous Petition is filed by the petitioners to grant permission to the 2nd petitioner/2nd plaintiff to withdraw the amount of Rs.7,55,178/- deposited by the respondent to the credit of the Suit in OS.No.820/2017.



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(2) The petitioners are the plaintiffs in the suit which was filed by them for recovery of a sum of Rs.13,37,246/- with interest and cost on account of damaged delivery of the cargo which was entrusted with the respondent herein for safe carriage and delivery.

(3) The suit was decreed and the respondent herein, aggrieved by the same, has filed the above Appeal Suit as against the decree for recovery of money.

(4) During the pendency of the Appeal Suit, this Court granted interim stay of further proceedings and thereby, the chance of recovery of the amount by execution is ruled out pending Appeal.

(5) The petitioners have filed the present Miscellaneous Petition to permit the 2nd petitioner/2nd plaintiff to withdraw 50% of the amount decreed, i.e., Rs.7,55,178/-, that was deposited to the credit of the suit in OS.No.820/2017.

(6) There is no dispute that the amount as directed by this Court for granting stay, had been deposited by the respondent herein. It is stated that the 2nd petitioner/2nd plaintiff is the Public Sector Insurance Company. The only objection raised by the respondent herein is that the respondent will be unable to get the amount refunded from the petitioners in case the Appeal Suit is decided in their favour.

(7) The 2nd petitioner/2nd plaintiff being the Government Company, it can be trusted for getting back the money in case the appeal is allowed. In such circumstances, the only contention of the learned counsel for the respondent that the petitioners/plaintiffs should offer some security before passing an order, cannot be given much weight.

(8) In the result, the Civil Miscellaneous Petition **is ordered as prayed for.**

-sd/-

07/12/2021

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.



TO

THE XVI ADDITIONAL JUDGE,
CITY CIVIL COURT, MADRAS.

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C.C. to M/S.NAGESWARAN AND NARICHANIA, Advocate SR.NO.7161/2021

C.C. to M/S.S.RAMASUBRAMANIAM ASSOCIATES, Advocate SR.NO.7207/2021

Order

in
CMP.No.16013 of 2021

in AS.No.910 of 2018

Date :07/12/2021

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