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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 05TH DAY OF AUGUST 2021

THE HON'BLE DR. JUSTICE G.JAYACHANDRAN

C.S.(Comm.Div) No.283 of 2017

And

O.A.No.380 of 2017

And

A.NO.2263 of 2017

C.S.(Comm.Div) No.283 of 2017:-

M/s.TJSV Steel Fabrication & Galvanizing (India)Ltd.,

Having Regd. Office

TC 21/497, Makkal Lane,

Kanattukara Post, Ayyanthol,

Thrissur, Kerala – 680 011.

Represented by its Authorised Representative

*Mr.Varghere Paul (Ammended as per order

dated 04.06.2019 in A.No.1247 of 2019)

...Plaintiff

Vs

1. M/s.East Coast Constructions and Industries Limited

Having Regd. Office at

“Buhari Building”

No.4, Moores Road,

Chennai – 600 006.

...1st Defendant

2. The South Indian Bank,Udumalpet Branch,

No.168/4, Palani Road,

Gandhi Nagar P.O,

Udumalpet,

Tirupur District – 642 201.

...2nd Defendant

Civil Suit Praying that this Hon'ble Court be pleased to Judgment

<https://hcservices.ecourts.gov.in/hcservices/>

and Decree against the 1st Defendant to:



(a) Discharge the performance Bank Guarantee

B.G.No.0349BG000112013 dated 22.10.2013 amounting to Rs.25,75,000.00;

(b) direct the payment of a sum of Rs.1,04,00,796.00 (Rupees One Crore Four Lakh Seven Hundred and Ninety Six Only) to the Plaintiff along with 12% interest from the date of Plaint, i.e.10.04.2017 to the date of realization;

(c) for costs of the suit;

O.A.No.380 of 2017:-

M/s.TJSV Steel Fabrication & Galvanizing (India)Ltd.,
Having Regd. Office
TC 21/497, Makkal Lane,
Kanattukara Post, Ayyanthol,
Thrissur, Kerala – 680 011.
Represented by its Authorised Representative
Mr.V.G.Suresh

...Applicant/Plaintiff in
A.No.2263 of 2017

Vs

1. M/s.East Coast Constructions and Industries Limited
Having Regd. Office at
“Buhari Building”,
No.4, Moores Road,
Chennai – 600 006.

...1st Respondent / 1st defendant
in A.No.2263 of 2017

2. The South Indian Bank,Udumalpet Branch,
No.168/4, Palani Road,
Gandhi Nagar P.O.,
Udumalpet,
Tirupur District – 642 201.

...2nd Respondent/ 2nd Defendant
in A.No.2263 of 2017

**O.A.No.380 of 2017:-**

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Original Application praying that this Hon'ble Court be pleased to grant interim injunction restraining the 1st Respondent from encashing the Bank Guarantee, B.G.No.0349BG000112013 dated 22.10.2013 amounting to Rs.25,75,000.00/- pending disposal of the suit.

A.No.2263 of 2017:-

Application praying that this Hon'ble Court be pleased to direct the 1st Respondent to take steps for certifying the quantities of the works done for release of payments.

This Civil Suit along with these applications coming on this day before this court for hearing in the presence of Mr.J.V.Mohan Kumar for M/s.King & patridge, advocates for the plaintiff in C.S.No.283 of 2017 and for the applicant in O.A.No.380 of 2017 and A.No.2263 of 2017 and Mr.P.Rishikesh, advocate for the 1st defendant in C.S.No.283 of 2017 and for the 1st respondent in O.A.No.380 of 2017 and A.No.2263 of 2017 and upon reading the plaint filed in C.S.No.283 of 2017 and the order dated 19/04/2017 made in O.A.No.380 of 2017 and A.No.2263 of 2017 and the order dated 13/06/2017 made in A.No.2263 of 2017 and this court having observed that evidence in this case was recorded in the month of December 2019, thereafter, the plaintiff had not come forward to make submission on the merits of this case instead, taken time to



report settlement and this court is of the view that there is no purpose in keeping the case pending under the commercial division for more than 20 months without any progress and **it is ordered as follows:-**

That the Suit in C.S.(Comm.Div) No.283 of 2017 be and is hereby dismissed for non-prosecution.

2. That these O.A. No.380 of 2017 and A.NO.2263 of 2017 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 05TH DAY OF AUGUST 2021.

Sd./-

ASSISTANT REGISTRAR(Comm.Cases)

//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.



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C.S.(Comm.Div) No.283 of 2017
And
O.A.No.380 of 2017
And
A.NO.2263 of 2017

ORDER

DATED : 05.08.2021

THE HON'BLE DR. JUSTICE
G.JAYACHANDRAN

FOR APPROVAL: 21/09/2021

APPROVED ON: 22/09/2021



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.08.2021

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.S.(Com.Div.) No.283 of 2017

and

O.A.No.380 of 2017

&

A.No.2263 of 2017

M/s.TJSV Steel Fabrication & Galvanizing (India) Ltd.,
Having Registered Office
TC 21/497, Makkal Lane,
Kanattukara Post, Ayyanthol,
Trissur, Kerala-680 011.
Represented by its Authorised Representative
Mr.Varghese Paul

(Amended as per order dated
04.06.2019 in A.No.1247 of 2019) ...Plaintiff

/versus/

1.M/s.East Coast Constructions and Industries Limited,
Having Registered Office at
“Buhari Building”,
No.4, Moores Road,
Chennai-600 006.

2.The South Indian Bank,
Udumalpet Branch,
No.164/4, Palani Road,
Gandhi Nagar P.O.,
Udumalpet,
Tirupur District-642 201.

.. Defendants



This Civil Suit is filed under Order IV Rule 1 Original Side Rules read with Order VII Rule 1 of CPC , prayed for (a) Discharge the performance Bank Guarantee B.G.No.0349BG000112013 dated 22.10.2013 amounting to Rs.25,75,000.00;

(b) Direct the payment of a sum of Rs.1,04,00,796.00 (Rupees One Crore Four Lakh Seven Hundred and Ninety Six Only) to the Plaintiff along with 12% interest from the date of Plaint, i.e.10.04.2017 to the date of realization;

(c) For costs of the suit.

For Plaintiff : M/s.King and Partridge

For Defendants : Mr.P.Rishikesh for D1

JUDGMENT

Evidence in this case was recorded in the month of December 2019. Thereafter, the plaintiff had not come forward to make submission on the merits of this case instead taken time to report settlement. In spite of several adjournments and keeping the matter pending for nearly 20 months, the learned counsels are not ready to take the case forward or to settle.



2. This Court is of the view that, there is no purpose in keeping the case pending under the commercial division for more than 20 months without any progress. Hence the suit is dismissed for non prosecution. Consequently, all other connected applications are closed. There shall be no order as to costs.

Sd./-G.J.J
05.08.2021

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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