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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on :07.02.2023

Judgment pronounced on :27.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.273 of 2023

and

C.M.P.No.2141 of 2023

Mecon Ltd.,
Mecon Limited, Vivekananda Path,
P.O.Doranda,
Ranchi – 834 002
Jharkhand

...Appellant

Vs.

1.Mycon Constructions Ltd.

Formerly known as:

M/s.The Mysore Construction Company (MCC)

Industry House, 45, Race Course Road,

Bangalore – 560001

Rep.by its authorized signatory

Shantanu Kalpani

2. Corporation Bank

RashtrothanaParshat Building

14-3, N.T.Road,

Bangalore – 560001

3. Corporation Bank

Industrial Finance Branch

No.30, I Floor, Rallaram Building,



Mission Road, Bangalore – 560027

4. Canara Bank

19/7, Maruthi Mansion

Cunningham Road Branch

Bangalore – 560052

5. ICICI Bank Ltd

Commercial Branch, 1st Floor,

ICICI Bank Towers

No.1, Commissariat Road,

Bangalore – 560025

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Order XLIII Rule 1(r) of the Code of Civil Procedure, 1908, to set aside the docket order dated 14.11.2022, passed by the 1st Additional District Judge, Cuddalore in I.A.No.344 of 2022 in O.S.No.133 of 2017.

For Appellant : Mr.Krishna Srinivasan, Senior Advocate

For M/s.Ramasubramaniam & Associates

For R1 : Mr.Anirudh Krishnan

**JUDGMENT**

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The first respondent before the Tribunal is the appellant herein. He filed the above C.M.A against the docket order passed by the learned 1st Additional District Judge, Cuddalore in I.A.No.344 of 2022 in O.S.No.133 of 2017 dated 14.11.2022.

2. The first respondent herein filed O.S.No.133 of 2017 for the following relief:

(i) Pass an order of permanent injunction restraining the 1st defendant or its representatives, men, agents, or any other person acting on its behalf from encashing the bank guarantee of the plaintiff worth Rs.9,22,23,427/-.

(ii) Pass an order of permanent injunction restraining the defendant Nos.2 to 5, its men, agents or any other person acting on its behalf from servicing the 1st defendant's request of encashment of the bank guarantee set out in schedule 'A' to the plaint;

(iii) Pass an order of mandatory injunction directing the 1st defendant to return the bank guarantees to the plaintiff

(iv) Direct the 1st defendant to pay a sum of Rs.11,42,90,389/- (Rupees Eleven Crores Forty Two Lakhs Ninety Thousand Three Hundred and Eighty Nine only) towards the outstanding amounts, the compensation, losses and expenses incurred by the plaintiff.



3. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the first respondent.

4. On filing of the suit, the case appears to have been made over the learned 1st Additional District Judge and another application has been filed for revoking the order of status-quo and the learned Additional District Judge appears to have passed an order for transferring the case to the learned Principal District Judge. However, the case is yet to be transferred back to the learned Principal District Judge which is designated as a Commercial Court for Cuddalore District and hence, this Civil Miscellaneous Appeal is filed by the appellant.

5. The case ought to have been transferred from the learned 1st Additional District Judge to the learned Principal District Judge, designated Commercial Court. However, instead a docket order had been passed and the case is still pending with the 1st Additional District Court, Cuddalore without any progress. Hence, the Interlocutory Application in I.A.No.344 of 2022 is still pending before the first Additional District Court without any progress.

6. The nature of the dispute is also clearly mentioned in the Interlocutory Application. The learned 1st Additional District Judge has passed the docket order for withdrawing the case is filed and for taking on file by the principal district judge court namely commercial court is still pending.



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7. After perusing the plaint and the subject matter of the lis and prayer therefor and validity of the plaint, I find that the Competent Court to hear the case i.e Principal District Court-cum-Commercial Courts at district level and hence without going into the merits of the other grounds agitated by the learned counsel for the petitioner, the following orders is passed:

"The suit in O.S.No.133 of 2017 is pending before the 1st Additional District Court is withdrawn from the said court and transferred to Principal District Court-cum-Commercial Court, Cuddalore and the said Court shall re-number the suit according to the Commercial Court register and to take on file."

8. The aforesaid exercise shall be completed before the first week of June 2023 and the first hearing of the suit shall be fixed during the second week of June 2023.

9. With these observations, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected C.M.P is closed.

27.04.2023

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Speaking Order: Yes/No
Neutral Citation : Yes/No



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RMT.TEEKAA RAMAN,J.,

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Judgment in
C.M.A.No.273 of 2023

27.04.2023