A.No.1833 of 2022
in
C.S.(Comm.Div).No.77 of 2022

S.SOUNTHAR, J.

This application has been filed by the applicant/plaintiff seeking prohibitory orders prohibiting 2nd respondent/garnishee from paying any amount to the 1st respondent/defendant to the extent of the suit claim of Rs.1,04,33,143/- and consequently, direct the 2nd respondent/garnishee to deposit the amount equivalent to the suit claim.

2. According to the applicant/plaintiff it is engaged in the business of supplying and trading of iron and steel. The 1st respondent is engaged in the business of manufacturing of press components. During the course of business, the 1st respondent had approached the applicant/plaintiff for supply of steel and based on the purchase orders of the 1st respondent, the applicant/plaintiff had supplied steel on various dates and raised invoices for the same. The applicant also maintained a running account. The 1st respondent failed to make payment to the applicant as against various invoices raised to the tune of Rs.1,07,38,686/-. It was also further stated that the 1st respondent acknowledged his liability and towards settlement of the due issued a cheque in favour of the applicant and when presented for collection, the same was dishonoured with an endorsement 'funds

insufficient'. Thereafter, the 1st respondent said to have paid a sum of Rs.10,00,000/- to the applicant.

3. It is also averred by the applicant that it reliably came to know that the 1st respondent had commenced work for the 2nd respondent/garnishee and the 2nd respondent owes some money to the 1st respondent, therefore, the present application filed by the applicant seeking a direction to the 2nd respondent to pay the amount to the extent of suit claim.

4. The 1st respondent herein filed a counter wherein, they admitted its liability to the extent of Rs.96,22,232/-. It was further averred by them that as per their account, the total amount payable to the applicant as per invoices raised by the applicant was only Rs.99,42,582.26/-. It was further claimed that after adjusting the payments made by them, the outstanding balance was only Rs.96,22,232/-. Therefore, there is an admission by the 1st respondent the aforesaid amount was due to the applicant. In the counter affidavit, it was further submitted by the 1st respondent that a sum of Rs.97,98,396.59/- was due from the 2nd respondent to 1st respondent.

5. The 2nd respondent/garnishee filed their counter and opposed the

application. It was mainly averred by the 2nd respondent that the applicant has not produced any acceptable material to show that an amount to the extent of suit claim was due from 2nd respondent to 1st respondent. The 2nd respondent in its counter clearly admitted that there was direct business relationship between the applicant and the 2nd respondent. It was also admitted by the 2nd respondent that it has business relationship with the 1st respondent as 2nd respondent would purchase fabricated steel components from 1st respondent on running account basis. According to the 2nd respondent, as per Annexure-2 to its counter a sum of Rs.2,96,44,956/- was due from 2nd respondent to 1st respondent. Further, it was stated by the 2nd respondent as per Annexure-3, a sum of Rs.1,13,82,159/- was recoverable from the 1st respondent to 2nd respondent. It is also claimed by the 2nd respondent that as per Book of Accounts of its sister's concern Harita Fehrer Limited, a sum Rs.23,82,807/- was due from 1st respondent to Harita Fehrer Limited. Therefore, in all a sum of Rs.1,37,64,966/- is recoverable from 1st respondent to 2nd respondent (which includes a sum of Rs.23,82,807/- payable by 1st respondent in favour of its sister's concern Harita Fehrer Limited). It was also claimed by the 2nd respondent that after adjusting the aforesaid amount, the 2nd respondent paid a sum of Rs.1,06,52,000/- to 1st respondent and the 2nd respondent also incurred GST liability of Rs.47,13,426/- for 1st respondent. Therefore, according to the 2nd respondent, if all these amounts are adjusted, only a sum of Rs.4,89,442/- is due from the 2nd respondent to 1st respondent.

6. Even as per the admitted statement of the 2nd respondent in Paragraph No.15 of its counter affidavit, a sum of Rs.4,89,442/- is due from 2nd respondent to 1st respondent. As per the averment of the 2nd respondent in Paragraph No.12 of its counter affidavit, a sum of Rs.23,82,807/- is due from 1st respondent to Harita Fehrer Limited. The 2nd respondent claimed set off against the 1st respondent in respect of the amount due to Harita Fehrer Limited. The 2nd respondent is not entitled to claim set off in respect of the money allegedly due to Harita Fehrer Limited. Therefore, this Court deems it appropriate to direct the 2nd respondent to deposit the admitted amount payable by it to the 1st respondent. Further, the 2nd respondent is not entitled to claim set off in respect of Rs.23,82,807/-, allegedly payable by the 1st respondent to Harita Fehrer Limited. Hence, it would be appropriate to direct the 2nd respondent to deposit said sum also.

7. In view of the discussions made earlier, this Court deems it appropriate to direct the 2nd respondent to deposit a sum of Rs.28,72,249/- to the credit of C.S.(Comm.Div).No.77 of 2022 within a period of two weeks from the date of receipt of a copy of this order.

8. With the above direction, the application is disposed of.

13.06.2023

dm

S.SOUNTHAR, J.

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