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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.S. (Comm. Div.) No.314 of 2023
and A.Nos.6690 & 6691 of 2023 and O.A.No.1070 of 2023

1.Bhandari Foils & Tubes Ltd.,
Rep. by its Authorised Signatory Mr.Alur Chakrapani,
Having registered Officer at:
No.27 B, Mooker Nallamuthu Street,
Broadway, Chennai – 600 001.

2.Enmas EPC Power Projects Limited,
Rep. by its Whole-time Director Mr.Alur Chakrapani,
Having registered Officer at:
No.484-485, Pantheon Plaza, Pantheon Road,
Egmore, Chennai – 600 008.

..Plaintiffs

.Vs.

1.DOHWHA Engineering Co., Ltd.,
Rep. by its Managing Director Mr.Chung-Yo-Taek,
Having Registered Office at:
438 Samseong-ro, Gangnam-gu,
Seoul, Republic of Korea - (#06178)

2.State Bank of India,
Rep. By its General Manager,

Having place of business at:
Overseas Branch – Kolkatta,
Block – Am Samriddhi Bhavan,
No.1, Strand Road, B.B.D. Bagh,
Kolkatta, West Bengal – 700 001.



Also at
Broadway Branch,
No.115, Broadway,
Chennai – 600 001

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..Defendants

Prayer: Civil Suit has been filed under Order IV, Rule 1 of the Original Side Rules read with Order VII Rule 1 of CPC, praying to pass a judgment and decree for:-

(a) For an order of permanent injunction restraining the 2nd Defendant, his men, agents or anyone claiming under them from allowing encashment of the Bank Guarantee by the 1st defendant bearing No.0963219FG0000256 dated 16th December 2019 given by the 1st Plaintiff under Articles of Sub-Contract dated 08.09.2018;

(b) for costs of the suit.

For Plaintiffs : Mr.P.S.Raman
Senior Counsel for
M/s.Raman & Associates
For Defendants : Mr.A.Anirudh Krishnan for D1

J U D G M E N T

Since this Court does not have jurisdiction to decide this suit, a Memo has been filed by the 1st defendant stating that without prejudice to the same and without submitting to the jurisdiction of this Court, the 1st defendant agrees to write to the 2nd defendant for keeping the encashment of the Bank Guarantee dated 16.12.2019 (which has already been invoked on 12.12.2023) in abeyance for a period of 10 calender days from today i.e, till 25.12.2023.



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2.The Memo dated 15.12.2023 filed by the 1st defendant is taken on record.

However, the plaintiff has filed an additional affidavit dated 15.12.2023 seeking for keeping the bank guarantee alive without encashment for a period of fourteen days.

However, in view of the admitted position that this Court does not have a jurisdiction to decide this dispute, this Court cannot grant fourteen days time as sought for by the plaintiff in its additional affidavit dated 15.12.2023 and only in terms of the memo, extension as agreed upon by the 1st defendant in the said memo, can be granted.

Therefore, in terms of the memo dated 15.12.2023, this Suit is disposed of. The Memo shall form part of this judgment. Consequently, connected applications are closed.

15.12.2023

Index: Yes/No

Speaking / Non speaking

ssr

Note: Issue Today (ie.,15.12.2023)

List of Witness examined on the side of the Plaintiffs :- Nil

List of Witness examined on the side of the Defendant :- Nil

List of the Exhibits marked on the side of the Plaintiff:- Nil

List of the Exhibits marked on the side of the Defendants:- Nil



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ABDUL QUDDHOSE, J.,

SSR

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