



WEB COPY



Tr.C.M.P.No.130 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM:

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

Tr.C.M.P.No.130 of 2023
and C.M.P.No.2807 of 2023

Sri Gokulam Hospitals Pvt. Ltd.,
through its Managing Director K.Arthanari
3/60, Meyyanur Road,
Meyyanur, Salem – 636 004

... Petitioner

VS

Canadian Crystalline Water India Ltd.,
Rep. by its Vice President Mr.N.Balakrishnan,
149, Poonamallee High Road,
Kilpauk, Chennai-600 010.

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of the Civil Procedure Code, to withdraw C.O.S.No.516 of 2022 pending on the file of the District Commercial Court at Egmore, Chennai and transfer the same to the file of the District Commercial Court, Salem, which is the competent jurisdiction Court to try the case along with C.O.S.No.1 of 2023 pending on its file.

For Petitioner : Ms.K.Priya



Tr.C.M.P.No.130 of 2023

For Respondent : Mr.Ram Kumar Natarajan

WEB COPY

ORDER

This Transfer Petition seeks for transfer of C.O.S.No.516 of 2022 pending on the file of the District Commercial Court at Egmore, Chennai to the file of the District Commercial Court at Salem to be tried along with C.O.S.No.1 of 2023.

2. The cause of action for presentation of both the suits is the supply of Oxygen Generator by the respondent to the transfer petitioner. The supply was made at the time of Covid on 28.07.2021. On the date of supply, a sum of Rs.15,75,000/- was paid as an advance leaving a balance amount of Rs.15,75,000/-. As the amounts were not paid, the respondent herein presented O.S.No.516 of 2022 before the District Commercial Court at Egmore, Chennai. Subsequently, the transfer petitioner moved a fresh suit in C.O.S.No.1 of 2023 before the District Commercial Court, Salem seeking for refund of the amount paid as advance. Since two separate suits are pending in different courts, hence, the present transfer petition.



Tr.C.M.P.No.130 of 2023

3. Heard Ms.K.Priya, learned counsel appearing for the petitioner and

Mr.Ram Kumar Natarajan, learned counsel appearing for the respondent.

4. Ms.K.Priya, would submit that as per the terms of the Purchase Order dated 28.07.2021, the petitioner and the respondent agreed that it is the Courts in Salem, which shall have jurisdiction to decide any dispute that may arise between them. According to her, the quotation that has been produced by the plaintiff to draw the jurisdiction into the Court in Chennai is a forgery. She would state that the signature found in Document No.2 is a forgery of the respondent/plaintiff's Managing Director's signature. She would state that as the parties have already agreed for the Courts in Salem, the proceedings in C.O.S.No.516 of 2022 has to be withdrawn and transferred to the file of the Court in Salem to be heard and tried along with C.O.S.No.1 of 2023.

5. Mr.Ram Kumar Natarajan, would submit that he had moved the suit in C.O.S.No.516 of 2022 earlier and he would stoutly deny the statement of Ms.K.Priya that the signature found in the quotation agreeing to jurisdiction in Madras is a forgery. He would state that document that has been filed by



Tr.C.M.P.No.130 of 2023

the respondent/plaintiff is true and genuine and has been produced from proper custody.

6. I have carefully considered the arguments on either side and perused the records.

7. I have to agree with Ms.K.Priya that there cannot be two suits on the same cause of action pending before two different courts. If that were be the situation, it will lead to a possibility of a conflicting judgment, yet I have to take notice of fact that the respondent was first of the block by presenting suit in O.S.No.516 of 2022 on the file of the District Commercial Court at Egmore, Chennai. Apart from this, the supplies have been made from Chennai to Salem. Therefore, both the Courts in Salem as well as Chennai possess the necessary jurisdiction to try the suits. Furthermore, in the matters of territorial jurisdiction, unless and until prejudice is shown and that too at the earliest available opportunity, the Court should not take into consideration the plea of lack of territorial jurisdiction. This is vide Section 21 of Code of Civil Procedure.



Tr.C.M.P.No.130 of 2023

8. Taking the over all circumstances into consideration, as the respondent has moved the suit earlier in Chennai, I am inclined to accept the transfer. Hence, the suit in C.O.S.No.1 of 2023 pending on the file of the District Commercial Court at Salem is withdrawn and transferred to the file of the District Commercial Court at Egmore, Chennai, to be heard and tried along with C.O.S.No.516 of 2022.

9. Accordingly, the Transfer Civil Miscellaneous Petition is allowed.
No costs. Consequently, the connected civil miscellaneous petition is closed.

09.07.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

- 1.The District Commercial Court,
Egmore, Chennai.
- 2.The District Commercial Court,
Salem.



WEB COPY



Tr.C.M.P.No.130 of 2023

V.LAKSHMINARAYANAN, J.

dm

Tr.C.M.P.No.130 of 2023

09.07.2024