



WEB COPY



C.S.No.789 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 29.07.2024
Judgment delivered on : 02.08.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

C.S.No.789 of 2015

M/s.Ever on Power Pvt. Ltd.
rep. by its authorized signatory
and legal Head Shri.S.Diraviam
Keshava, VI Floor, Bandra-Kurla Complex,
Bandra (East), Mumbai -400 051.

... Plaintiff

Vs.

1. M/s.Winwind Power Energy Pvt.Ltd
rep.by its WholeTime Director,
Mr.Shankar Varadharajan,
Beliciaa Towers, Tower-1,
10th Floor, I Main Road, M.R.C.Nagar,
Raja Annamalai puram, Chennai – 600 028.

2. The New India Assurance Company Ltd.
rep. by its Manager, Mac Millan House,
II Floor, B Block, No.21, Pattulos Road,
Chennai-600002.

3. M/s.Perpetual Power Private Limited,
rep. by its Director,
No.114, Kothari Buildings, IV Floor,
Mahathma Gandhi Road, Chennai-600034.

... Defendants



C.S.No.789 of 2015

PRAYER: Complaint filed under Order IV Rule 1 of the Original Side Rules of this Court read with Order VII Rule 1 of the Civil Procedure Code.,1908 and numbered as C.S.No.789 of 2015, praying for judgment and decree against the defendants , as follows:

(a) Directing the first and second defendants jointly and severally to pay a sum of Rs.4,39,05,420/- (Rupees four crore thirty nine lakhs five thousand four hundred and twenty only) to the plaintiff with future interest @18% p.a., on Rs.4,39,05,420/- till the date of realization.

(b) Directing the first and second defendants jointly and severally to pay a sum of Rs.10,00,000/- per month towards damages for loss of energy from the date of plaint till settlement of the plaintiff's claim

(c) To grant such or other relief and

(b) For the Costs of the suit

For Plaintiff : Mr.R.Thiagarajan

For D1 : Set exparte on 02.01.2018

For D2 : Mr.S.Dhakshnamoorthy

For D3 : Mr.C.S.K.Sathish



C.S.No.789 of 2015

WEB COPY

JUDGMENT

The suit is filed by the plaintiff seeking direction (i) to direct the 1st and 2nd defendants jointly and severally to pay a sum of Rs.4,39,05,420/- to the plaintiff with future interest @18% p.a., on Rs.4,39,05,420/- till the date of realization; (ii) to direct the 1st and 2nd defendants jointly and severally to pay a sum of Rs.10,00,000/- per month towards damages for loss of energy from the date of plaint till settlement of the plaintiff's claim; and (iii) for costs.

2. Heard the learned counsel for the plaintiff and the respective learned counsel appearing for defendants 2 and 3. The first defendant was set exparte vide order of this Court dated 02.01.2018

3. The case of the plaintiff is as follows :

(i) The plaintiff is M/s. Ever on Power Private Limited. The defendants 1 and 3 are engaged in the business of harnessing energy through non conventional sources, including wind energy. The plaintiff,



C.S.No.789 of 2015

first and third defendants are companies incorporated under the Companies Act, 1956. The second defendant is a nationalized insurance corporation carrying on the business of general insurance. The plaintiff and the first defendant had entered into a Memorandum of Understanding (MOU) dated 19.12.2013 at Chennai.

(ii) The first defendant, under the above MOU, had agreed to sell the plaintiff (a) 1 No. of 1000 K.W. of Winwind make Wind Electric Generator [in short “WTG”] consisting of 70 meter tower, generator, single stage planetary gearbox, nacelle and (b) 3 No's of 60 m blades and other incidental equipment connected to WTG along with the land comprised in S.F.Nos.275/1A, 1B, 276 and 277 of Ayyanaruthu Village, Thoothukudi District in Thoothukudi Registration District, Kayathar Sub-registration District, Kovilpatti Taluk, ad-measuring 8.28 Acres where the WTG is installed. The consideration for sale of these assets to the plaintiff was fixed at Rs.2.8 Crores. The first defendant had also offered one year warranty for the WTG including one year free operation & maintenance (O & M) of the WTG during the first year. The first defendant had also agreed to operate and maintain the said WTG from



C.S.No.789 of 2015

WEB COPY

the second year for Rs.9 lakhs with annual escalation at 5% from third year onwards.

(iii) The above WTG was insured by the first defendant with the second defendant under two separate special policies viz. "Standard Fire and Special Peril Policy "and "Machinery Insurance Policy". The second defendant, under the above said two policies, had covered the WTG against the risk of fire or damage or other loss that may be caused to machinery as a result of sudden or accidental electrical and mechanical breakdown respectively. Both the policies were valid from 22.5.2013 to 21.5.2014 midnight.

(iv) Despite the sale of the WTG, the first defendant had convincingly represented to the plaintiff that the insurance policies issued by the second defendant subsist, valid and protect the WTG against any risks in the form of fire or any mechanical or other break downs till 21.5.2014. The plaintiff, acting upon the above MOU, had made a total payment of Rs.2,76,59,880/- to the first defendant and fulfilled the transaction as per the MOU dated 19.12.2013 as stated supra.



C.S.No.789 of 2015

WEB COPY

(v) The first defendant, under a sale deed 30.12.2013, had conveyed the land comprised in S.F.Nos.275/1A, 1B, 276 and 277 of Ayyanaruthu Village, Thoothukudi District in Thoothukudi Registration District, Kayathar Sub-Registration District, Kovilpatti Taluk ad-measuring 8.28 Acres in favour of the plaintiff for a consideration of Rs.15 lakhs. The said sale deed was registered as Doc.No.6398 of 2013 in the office of the Sub-Registrar, Kayathar. The first defendant accordingly handed over the original title deeds and the physical possession of the said land to the plaintiff. Similarly, by an invoice dated 30.12.2013 the first defendant sold and delivered the 1 MW WTG to the plaintiff. Having been made to believe by the first defendant that the insurance cover for the WTG availed from the second defendant was valid till 21.5.2014, the plaintiff did not insure the WTG independently and separately in their name after the aforesaid transaction.

(vi) After the conveyance of the land and the sale of the WTG in their favour, the plaintiff had entered into a lease agreement dated 30.12.2013 with the third defendant, by which, both the land comprised in S.F.Nos.275/1A, 1B, 276 and 277 of Ayyanaruthu Village,



C.S.No.789 of 2015

Thoothukudi District property in Thoothukudi Registration District, Kayathar Sub-registration District, Kovilpatti Taluk, Ayyanaruthu Village ad-measuring 8.28 Acres as well as the 1 MW WTG installed therein were leased out to the 3rd defendant for a period of 25 years commencing from 30.12.2013 till 29.12.2038. The lease deed was registered as Document No.6405 of 2013 in the office of the Sub-Registrar, Kayathar. The lease consideration was fixed at Rs.100/- per acre per annum. The third defendant is a commercial arm of the plaintiff. The plaintiff holds shares in the third defendant. The third defendant sold the power generated by the WTG under group captive scheme to private consumers at market rate. Thus, the plaintiff, as their share holder too, stood gained by the profit made by the third defendant.

(vii) The first defendant, as agreed in the MOU dated 19.12.2013, commenced their operation & maintain (O&M) services to the WTG sold to the plaintiff ever since 30.12.2013 by employing their own personnel to run, repair, maintain the WTG and to protect the WTG. Despite the sale of WTG effected by the first defendant in favour of the plaintiff, the

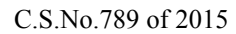


C.S.No.789 of 2015

first defendant continued to have the physical possession and control of the WTG under their care and custody.

(viii) On 02.4.2014, while the personnel of the first defendant were servicing the WTG at about 2.52 P.M. a fire accident took place in the WTG. As a result, the WTG and other equipment installed in the land comprised in S.F.Nos.275/1A, 1B, 276 and 277 of Ayyanaruthu Village, Thoothukudi District were engulfed in fire. The plaintiff, upon being informed of the fire accident, promptly informed the first defendant to take necessary steps to minimize and mitigate the loss. The first defendant also promptly informed the second defendant regarding the fire accident. However, the said devastating fire caused the total loss of the equipments sold by the first defendant to the plaintiff. The first defendant estimated the loss at Rs.5,79,46,937/- and lodged a claim with the second defendant.

(ix) The second defendant to had also appointed an insurance surveyor on 09.4.2015. The surveyor inspected the site and conducted the survey regarding cause of the fire and loss occurred to assess the quantum of damage caused to the plant and machinery. Thereupon, on



(x) As requested by the first defendant, the plaintiff made certain payments to various third parties on 21.5.2014, 24.5.2014, 02.6.2014 and 03.6.2014, totalling an amount of Rs.27,42,860/- to the persons as mentioned in the list annexed to the affidavit of the first defendant. The first defendant, by e-mail dated 03.6.2014, admitted the said payments made by the plaintiff to the those parties.

Page 9 of 55



C.S.No.789 of 2015

WEB COPY

dated 30.01.2015 by citing lack of "insurable interest" in the WTG at the time of occurrence of fire in view of the sale of WTG in favour of the plaintiff. The second defendant, while repudiating the claim preferred by the first defendant, cited Condition No.3(c) of the General Conditions of the Standard Fire and Special Peril Policy, which reads as follows:

"Under any of the following circumstances, the insurance ceases to attach as regard the property affected unless the insured before the occurrence of any loss or damage, obtains the sanction of the Company signified by endorsement upon the policy by or on behalf of the Company:-

(a) If the trade or manufacture carried on be altered, or if the nature of the occupation of or other circumstances affecting the building insured or containing the insured property be changed in such a way as to increase the risk of loss or damage by insured Perils.

(b) If the building insured or containing the insured property becomes unoccupied and so remains for a period of more than 30 days.

(c) If the interest in the property passes from the insured otherwise than by will or operation of law."

(xii) The Plaintiff had constantly requested the 1st defendant to diligently and effectively prosecute the claim repudiated by the second



C.S.No.789 of 2015

WEB COPY

defendant on untenable grounds. The plaintiff, by their letter dated 22.4.2015, also called upon the first defendant to make payment of Rs.4,39,05,420/- being the cost of the plant and machinery, the amounts paid towards dismantling and transportation of the damaged WTG and the generation loss for one year together with interest at 18% per annum. In response to the said letter dated 22.4.2015, the first defendant, by letter dated 11.5.2015, denied their liability to pay the amount as demanded by the plaintiff and attributed negligence on the part of the plaintiff in not transferring the insurance in their name after purchase of the plant and machinery. There upon, the plaintiff had caused a lawyer notice dated 13.7.2015 to the first and second defendants calling upon them to pay a sum of Rs.4,39,05,420/-. But, the second defendant, through the reply notice dated 31.7.2015, had once again denied its liability to indemnify the loss and further questioned the *locus standi* of the plaintiff to make such claim as against it.

(xiii) At the time of purchase of the WTG, the first defendant misrepresented to the plaintiff that the WTG was protected by a valid and subsisting insurance policy issued by the second defendant in their



C.S.No.789 of 2015

WEB COPY

favour. The same has been reiterated by the first defendant in their letter dated 30.4.2015 and the e-mails addressed to the plaintiff. The fraudulent misrepresentations made by the first defendant coupled with their conduct induced the plaintiff to omit to secure the WTG by an independent insurance cover. The first defendant, with a view to induce the plaintiff to purchase the WTG at the price quoted by them, made the plaintiff to believe certain vital material facts pertaining to the sale transaction to be true, which never existed.

(xiv) In any event, on the date of occurrence of fire ie. 02.04.2014, the first defendant was in lawful possession of the WTG under the operation and maintenance contract with the plaintiff. The position of the first defendant qua the plaintiff was that of a bailee. The said operation & maintenance contract between the parties hereto and the above said legal status of the first defendant clothed sufficient insurable interest in favour of the first defendant to lodge a valid claim against the loss with the second defendant. The first defendant, notwithstanding the sale of WTG in favour of the plaintiff, continued to have interest in the subject-matter of insurance covered by the policies referred to supra. The plaintiff has



C.S.No.789 of 2015

beneficial interest in the WTG. But, the second defendant, by mixing up the issue of insurable interest with legal ownership of the WTG, erroneously repudiated the claim lodged by the first defendant in relation to the WTG.

(xv) As could be seen, the first defendant, by virtue of the operation and maintenance contract entered into with the plaintiff, agreed to maintain the plant and equipment sold to the plaintiff. The first defendant has also given a warranty for a period of one year. In such circumstances, the first defendant ought not to have avoided payment to the plaintiff in as much as the operation and maintenance contract envisages the duties, responsibilities and obligations of the first defendant in maintaining the plant and equipment sold in favour of the plaintiff. Further, the second defendant, overlooking the subsisting right and interest of the first defendant in the goods lost by fire, cannot repudiate the claim on the basis of the technical plea "insurable interest".

(xvi) The first defendant, who sold the plant equipment to the plaintiff, has an insurable interest, in-as-much as the first defendant has taken over the responsibility of maintaining the plant and machinery for a



C.S.No.789 of 2015

WEB COPY

period of one year. In such circumstances, the repudiation of the claim by the second defendant on the ground that the first defendant did not have an insurable interest in respect of the plant and machinery is entirely unfounded and lacks any basis or justification. The insurable interest has been defined as an interest in the plant and equipment, which need not be an interest by virtue of ownership, but it could also be an interest other than the ownership. If a person is interested in the preservation of a thing and if such a thing could be insured, admittedly, the first defendant, which is the insured of plant and machinery, by reason of the sale, does not cease to have any control or interest and it cannot be contended by any stretch of imagination that the first defendant ceased to be the owner and that they do not have any insurable interest in the plant and equipment and such a conclusion is perverse, unsustainable and untenable in law and on facts. The case on hand would manifest that the first defendant continues to have an insurable interest over the windmill, which has been sold to the plaintiff by the first defendant.

(xvii) The insurable interest and the legal interest have been dealt with by various courts in India and it is determined that the insurable



C.S.No.789 of 2015

WEB COPY

interest in a contract of fire insurance requires an interest on the subject matter. The test for determination of the interest is as to whether the loss to the property would cause pecuniary loss to the insured property and as to whether he would have attained any pecuniary benefit or advantage from preservation of the insured property. If the Insured would suffer loss or derive benefit, he would be having an insurable interest in the subject matter of the insured goods. The same would be good enough to entitle him to claim the loss suffered. The extent of interest is irrelevant for the purpose of settling the claim. Thus, the insurable interest existing in favour of the first defendant ought not to have been ignored or ruled out by the second defendant. The first defendant, for the purpose of receiving the insurance claim, stands in a position of a trustee of the plaintiff. The plaintiff, by virtue of the sale, has acquired right, title and interest in the property. But, the collateral contract like insurance continues to be with the first defendant. The subject matter of contract is different from the subject matter of insurance and the right of the plaintiff to claim amount covered by the policy is not extinguished and continues to be intact.



C.S.No.789 of 2015

WEB COPY

(xviii) Hence both defendants 1 and 2 are jointly and severally liable to pay the plaintiff a sum of Rs.4,39,05,420/- with future interest, as the fraudulent misrepresentation and inducement made by the first defendant exposed the plaintiff the risk of loss and the wrongful repudiation of the insurance claim by the second defendant, resulted in pecuniary loss to the plaintiff. The plaintiff is not aware about the legal steps taken by the first defendant against the second defendant towards recovery of the sum of loss wrongfully repudiated by it. In the event of the first defendant receiving any amount from the second defendant towards the policies wrongfully repudiated by the second defendant, the plaintiff is entitled for the said sum, or so much thereof as may be necessary, to be applied in re- commissioning the plant and machinery and recoup the losses suffered by it on account of the fire accident. Hence, the plaintiff has come forward with this suit seeking the relief as stated supra.

4. The second defendant filed a written statement wherein it has been stated as hereunder :



C.S.No.789 of 2015

WEB COPY

(i) The suit is not maintainable against the second defendant, as there is no privity of contract between the plaintiff and the second defendant and is liable to be dismissed *in limini*. The second defendant is not a party to the MOU entered into between the plaintiff and the first defendant.

(ii) The policies were issued in favour of the first defendant to cover the WTG. Further, as per the MOU dated 19.12.2013 entered between the plaintiff and the first defendant, it was agreed by the plaintiff that they should take necessary insurance related to WTG upon the name transfer of land and power purchase agreement, which clearly demonstrates that the plaintiff and first defendant were well aware about the terms and conditions of the policy *inter alia* the insurable interest.

(iii) The first defendant lost the insurable interest in the property as soon as they sold the property. Moreover, any contractual liability between the plaintiff and the first defendant would not bind the second defendant, who is not a party to the MOU dated 19.12.2013. The insurance contract is a special contract based upon the principle of "*uberrimae fidei*". As per the said principle, it is the duty of the first



C.S.No.789 of 2015

defendant to disclose any material change in the insurance contract. On the other hand, the first defendant neither informed the second defendant nor obtained the sanction from the second defendant upon transfer of the subject matter insured.

(iv) The fire accident occurred on 02.4.2014 and the same was intimated by the first defendant and the second defendant promptly appointed a surveyor for assessment of loss. Only thereupon, while processing the claim, the second defendant came to know that the first defendant - the insured under the insurance policy, had sold the subject matter covered under the policy to the plaintiff much earlier to the fire accident, which fact was not disclosed by the first defendant to the second defendant. Hence, this first defendant did not have any insurable interest in the subject matter insured.

(v) Therefore, the second defendant repudiated the claim as per Condition No.3(c) of the General Conditions of the Standard Fire and Special Peril Policy, which would explicitly state that the insurance ceases to attach if the interest in the property passes from the insured otherwise than by will or operation of law unless the insured, before the



C.S.No.789 of 2015

occurrence of any loss or damage, obtains the sanction of the insurance company signified by endorsement upon the policy. Though the first defendant had sufficient time to intimate the change in insurable interest before the occurrence of the fire accident, they had failed to do so. The cardinal rule in fire insurance contracts is that the insured shall have the insurable interest at the time of taking the policy and also during the currency of the policy. There is no contractual relationship between the plaintiff and the second defendant. When there is no privity of contract, the *locus standi* to implead the second defendant by the plaintiff is patently erroneous and unsustainable in law.

(vi) It is averred in the plaint that the subject matter insured was leased to the third defendant for 25 years vide lease agreement dated 30.12.2013 commencing from 30.12.2013. Therefore, the first defendant, even if engaged in operation and maintenance does not have the control over the property and does not have insurable interest and as rightly stated by the plaintiff, only the plaintiff has beneficial interest in the WTG. The second defendant is not aware of the operation and maintenance contract entered by the first defendant with the plaintiff.



C.S.No.789 of 2015

After the sale was effected, the first defendant lost the insurable interest in the subject matter insured and the said principle is the basis of payment of any insurance claim. No claim under any insurance policy can be paid unless the insured has the insurable interest in the property covered under the policy. Hence, the second defendant rightly repudiated the claim. This principle of 'insurable interest' is the essential difference between the insurance contract and a wagering contract.

(vii) There is no cause of action in this suit against the second defendant. As such, the above suit is without merits, vexatious, not maintainable and is liable to be dismissed as against the second defendant. Hence, it is prayed that this Court may dismiss the suit as against the second defendant with exemplary cost.

5. On the basis of the above pleadings, this Court, by order dated 25.11.2019, framed the following issues:-

i. Whether the defendants 1 and 2 are jointly and severally liable to pay a sum of Rs.4,39,05,320/- to the plaintiff?



WEB COPY



C.S.No.789 of 2015

ii. Whether the first defendant has insurable interest on the date of occurrence of the fire accident?

iii. Whether the plaintiff can claim the benefit of the insurance contract entered into between the first defendant and the second defendant?

iv. Whether the defendants 1 and 2 are jointly and severally liable to pay Rs.10,00,000/- [Rupees Ten Lakhs Only] per month as damages for loss of energy from the date of plaint till realisation?

v. To what other reliefs, the parties are entitled to?

6. Learned Counsel for the plaintiff submitted as follows :

(i) The plaintiff, first and third defendants are companies incorporated under the Companies Act, 1956. The defendants 1 and 3 are carrying on their business of harnessing energy through non conventional sources including wind energy. The second defendant is a nationalized insurance corporation carrying on the business of general



C.S.No.789 of 2015

insurance.
WEB COPY

(ii) The plaintiff and the first defendant had entered into a Memorandum of Understanding (MoU) dated 19.12.2013 at Chennai. The first defendant, under the above MOU, had agreed to sell to the plaintiff 1 No. of 1000 K.W. of Win-wind make Wind Electric Generator (WTG) consisting of 70 meter tower, generator, single stage planetary gearbox, nacelle and 3 No's of 60 m blades and other incidental equipment connected to WTG along with the land comprised in S.F.Nos.275/1A, 1B, 276 and 277 of Ayyanaruthu Village, Thoothukudi District in Thoothukudi Registration District, Kayathar Sub-registration District, Kovilpatti Taluk, ad-measuring 8.28 Acres where the WTG is installed. Apart from the sale transaction, the first defendant offered one year warranty and one year free operation and maintenance of the WTG. The first defendant had also agreed to operate and maintain the said WTG from the second year for Rs.9 lakhs with annual escalation at 5% from third year onwards.

(iii) The above WTG was insured by the first defendant with the second defendant under two separate special policies viz. "Standard Fire



C.S.No.789 of 2015

and Special Peril Policy "and "Machinery Insurance Policy". The second defendant, under the above said two policies, had covered the WTG against the risk of fire or damage or other loss that may be caused to machinery as a result of sudden or accidental electrical and mechanical breakdown respectively. Both the policies were valid from 22.5.2013 to 21.5.2014 midnight. The first defendant had sold the said land to the plaintiff under a sale deed dated 30.12.2013 registered as Doc.No.6398 of 2013 in the office of the Sub-Registrar, Kayathar for a sale consideration of Rs.15,00,000/-. Further, WTG and the incidental equipments were sold by an invoice dated 31.12.2013.

(iv) Subsequent to the sale in favour of the plaintiff, the plaintiff had entered into a lease agreement for a period of 25 years with the third defendant. The first defendant was in actual physical possession and control of the Plant, as a Operation and Maintenance partner. A fire accident occurred on 02.04.2014 at 2.52 pm, while the personnel of the first defendant were servicing with WTG and as a result, the entire WTG and equipments were completely destroyed by fire. The first defendant informed the fire accident to the second defendant. The second defendant



C.S.No.789 of 2015

appointed a surveyor and conducted a survey and inspection of the site on 09.04.2014. On request of financial assistance made by the first defendant, the plaintiff advanced Rs.26,37,860/- through M/s.Indo Wind Energy Limited and the first defendant acknowledged that he said sum of Rs.27,42,860/- shall be adjusted in the future transactions. However, the second defendant repudiated the entire claim raised by the first defendant citing lack of insurable interest. On 02.04.2014, when the fire accident was occurred, the first defendant was in lawful possession of the WTG under the O&M contract as a bailee and as such, the first defendant continues to have insurable interest. Hence, the plaintiff sent letters to the first and second defendants calling upon them to pay the amount. Upon their refusal to settle the claims, the plaintiff has filed the present suit for recovery of money and damages.

7. In support of his contentions, the learned counsel for the plaintiff has placed reliance on the following judgements :

*"i. judgment of a learned Single Judge of the
Bombay High Court in the case of Ramji Karamsi
Vs. Unique Motor and General Insurance Co. Ltd*



C.S.No.789 of 2015

[reported in AIR 1951 Bom. 347];

ii. judgment of the three Judges Bench in the case of Rayner Vs. Preston [reported in L.R.18 Ch.D.1];

iii. judgment of a Division Bench of this Court in the case of The General Assurance Co. Vs. Sitarama Rice Mill Co.Ltd. [reported in (1970) 83 LQ 215];

iv. judgment of a learned Single Judge of the Bombay High Court in the case of R.S.Deboo (since deceased) by L.R's Vs. Dr.M.V.Hindlekar [reported in AIR 1995 Bom. 68];

v. judgment of a Division Bench of the Jammu & Kashmir High Court in the case of M/s.Oriental Insurance Co. Ltd Vs. Sham Lal Matoo [reported in AIR 2006 J& K 103];

vi. general article namely Insurance in a Bailment by Erin Goh-Low Soen Yin [reported in 1995 (7) SACLJ 367]

vii. judgment of a Division Bench of the Delhi High Court in the case of the New India Assurance Co. Ltd Vs. T.T. Finance Limited [reported in ILR (2011) 3 Del. 625];

viii. judgment of another Division Bench of



WEB COPY



C.S.No.789 of 2015

the Delhi High Court in the case of Bright Enterprises Private Limited and another Vs. MJ Bizcraft LLP [reported in 2017 SCC Online Del. 6394].

ix. Judgment of the Hon'ble Supreme Court of India in the case of Canara Bank Vs. Unitd India Insurance Co.,Ltd., [reported in 2020 (3) SCC 455"

8. Per contra, the learned counsel for the second defendant submitted as follows:

(i) The second defendant had issued two Insurance Policies namely Standard Fire and Special Perils Policy and Machinery Insurance Policy in favour of the first defendant for the period from 22.05.2013 to 21.05.2014. The fire accident occurred on 02.04.2014. The first defendant intimated the claim to the second defendant/Insurance company. Hence, the second defendant appointed a Surveyor for assessment of loss. Meanwhile, the second defendant came to know that the insured/first defendant had already sold the equipment to the plaintiff on 30.12.2013. Fire Insurance is a personal contract and under the terms and conditions of the policy, in the case of transfer of ownership of the



C.S.No.789 of 2015

WEB COPY

insured property, the policy will cease unless the insured, before occurrence of any loss/damage, duly intimates the Insurance Company and also obtains the sanction of the Insurance Company, signified by the necessary endorsement upon the policy with respect to such transfer. The first defendant failed to do so.

(ii) The principle of Fire Insurance Contract is that the insurable interest must exist both at the time of taking the policy and also the at the time when loss occurs. The plaintiff is the third party to the Insurance Contract. There is no privity of contract between the plaintiff and the second defendant. In the present case, the insured/first defendant had sold the entire subject item in favour of the plaintiff, much prior to the date of accident. Hence, the second defendant repudiated the first defendant's claim, as per the principles of insurable interest and as per the terms and conditions of the policy.

9. In support of his submissions, the learned counsel for the second defendant relied upon the following judgements :



C.S.No.789 of 2015

(a) of the Supreme Court in the case of ***M.C.Chacko Vs. State Bank of Travancore, Trivandrum [reported in AIR 1970 SC 504];***

(b) of the Division Bench of the Gauhati High Court in the case of ***Panmal Ranka Vs. Oriental Fire & General Insurance Co. Ltd. [reported in AIR 1979 Gau. 70];***

(c) of the Supreme Court in the case of ***Complete Insulations (P) Ltd. Vs. New India Assurance Company Ltd. [reported in AIR 1996 SC 586];***

(d) of the Supreme Court in the case of ***United India Insurance Co. Ltd. Vs. Harchand Rai Chandan Lal [reported in 2004 (8) SCC 644];*** and

(e) of the Supreme Court in the case of ***Suraj Mal Ram Niwas Oil Mills (P.) Ltd. Vs. United India Insurance Co. Ltd. [reported in 2010 (10) SCC 567].***

10. This Court has carefully considered the submissions of the learned counsel on either side. This Court has also carefully gone



C.S.No.789 of 2015

through the materials available on record.

11. The specific case of the plaintiff is that the plaintiff and the first defendant had entered into a Memorandum of Understanding (MoU) dated 19.12.2013 at Chennai. The first defendant had agreed to sell to the plaintiff 1 No. of 1000 K.W. of Win-wind make Wind Electric Generator (WTG) consisting of 70 meter tower, generator, single stage planetary gearbox, nacelle and 3 No's of 60 m blades and other incidental equipment connected to WTG along with the land comprised in S.F.Nos.275/1A, 1B, 276 and 277 of Ayyanaruthu Village, Thoothukudi District in Thoothukudi Registration District, Kayathar Sub-registration District, Kovilpatti Taluk, ad-measuring 8.28 Acres where the WTG is installed. Apart from the sale transaction, the first defendant offered one year warranty and one year free operation and maintenance of the WTG.

12. The first defendant had also agreed to operate and maintain the said WTG from the second year for Rs.9 lakhs with annual escalation at 5% from third year onwards. The above WTG was insured by the first



C.S.No.789 of 2015

WEB COPY

defendant with the second defendant under two separate special policies viz. "Standard Fire and Special Peril Policy "and "Machinery Insurance Policy". The second defendant, under the above said two policies, had covered the WTG against the risk of fire or damage or other loss that may be caused to machinery as a result of sudden or accidental electrical and mechanical breakdown respectively. Both the policies were valid from 22.5.2013 to 21.5.2014 midnight. The first defendant had sold the said land to the plaintiff under a sale deed dated 30.12.2013 registered as Doc.No.6398 of 2013 in the office of the Sub-Registrar, Kayathar for a sale consideration of Rs.15,00,000/-. Further, WTG and the incidental equipments were sold by an invoice dated 31.12.2013.

13. The first defendant was in actual physical possession and control of the Plant, as a Operation and Maintenance partner. Whileso fire accident occurred on 02.04.2014 at 2.52 pm, while the personnel of the first defendant were servicing with WTG and as a result, the entire WTG and equipments were completely destroyed by fire. The first defendant informed the fire accident to the second defendant. The second



C.S.No.789 of 2015

defendant appointed a surveyor and conducted a survey and inspection of the site on 09.04.2014. The second defendant repudiated the entire claim raised by the first defendant citing lack of insurable interest. On 02.04.2014, when the fire accident was occurred, the first defendant was in lawful possession of the WTG under the O&M contract as a bailee and as such, the first defendant continues to have insurable interest. Consequently, the plaintiff caused letters to the first and second defendants calling upon them to pay the amount. Upon their refusal to settle the claims, the plaintiff has filed the present suit for recovery of money.

14. The first defendant had already been set exparte vide order of this Court dated 02.01.2018.

15. The case of the second defendant is that there is no privity of contract between the plaintiff and the second defendant. The second defendant is not a party to the Memorandum of Understanding dated 19.12.2013 entered into between the plaintiff and the first defendant. It



C.S.No.789 of 2015

WEB COPY

was agreed by the plaintiff that they would take necessary insurance related to WTG upon the name transfer of land and power purchase agreement, which clearly demonstrated that the plaintiff and the first defendant were well aware about the terms and conditions of the policy *inter alia* the insurable interest. The first defendant lost the insurable interest in the property as soon as they sold the property to the plaintiff.

16. Moreover, any contractual liability between the plaintiff and the first defendant would not bind the second defendant, which is not a party to the MOU dated 19.12.2013. The insurance contract is a special contract based upon the principle of "*uberrimae fidei*". It is the duty of the first defendant to disclose any material exchange in the insurance contract. The first defendant neither informed the second defendant nor obtained the sanction from the second defendant upon transfer of the subject matter insured. The fire accident occurred on 02.4.2014 and the same was intimated by the first defendant and the second defendant promptly appointed a surveyor for assessment of loss. While processing the claim, the second defendant came to know that the first defendant -



C.S.No.789 of 2015

WEB COPY

the insured under the insurance policy had sold the subject matter covered under the policy to the plaintiff much earlier to the fire accident, which fact was not disclosed by the first defendant to the second defendant.

17. The second defendant repudiated the claim as per Condition No.3(c) of the General Conditions of the Standard Fire and Special Peril Policy. The cardinal rule in fire insurance contracts is that the insured shall have the insurable interest at the time of taking the policy and also during the currency of the policy. There is no contractual relationship between the plaintiff and the second defendant. The first defendant, even if engaged in operation and maintenance, does not have the control over the property and does not have the insurable interest. The plaintiff only has the beneficial interest in the WTG. The second defendant is not aware of the operation and maintenance contract entered by the first defendant with the plaintiff. After the sale was effected, the first defendant lost the insurable interest in the subject matter insured and the



C.S.No.789 of 2015

said principle is the basis for payment of any insurance claim. No claim under any insurance policy can be paid unless the insured has the insurable interest in the property covered under the policy.

18. Issue No:1

Whether the defendants 1 and 2 are jointly and severally liable to pay a sum of Rs.4,39,05,320/- to the plaintiff?

(i) According to the plaintiff, defendants 1 and 3 are carrying on their business of harnessing energy through non conventional sources including wind energy. The plaintiff and the first defendant had entered into a Memorandum of Understanding (MoU) dated 19.12.2013. Under the said MoU, the first defendant had agreed to sell the plaintiff

(a) 1 No. of 1000 K.W. of Winwind make Wind Electric Generator (WTG) consisting of 70 meter tower, generator, single stage planetary gearbox, nacelle; and

(b) 3 No's of 60 m blades and other incidental equipment connected to WTG along with the land comprised in S.F.Nos.275/1A, 1B, 276 and 277 of



C.S.No.789 of 2015

Ayyanaruthu Village, Thoothukudi District in Thoothukudi Registration District, Kayathar Sub-registration District, Kovilpatti Taluk, ad-measuring 8.28 Acres where the WTG is installed.

(ii) The first defendant offered one year warranty for the WTG during the first year including one year free operation and maintenance of the WTG during the first year and operate and maintain the said WTG from second year, for Rs.9 Lakhs with annual escalation at 5% from the third year onwards. The WTG was insured by the first defendant with the second defendant under two separate policies. The second defendant had covered the WTG against the risk or damage or other loss that may be caused to the machinery as a result of sudden or accidental electrical and mechanical breakdown respectively. Both the policies are valid from 22.05.2013. The first defendant sold the incidental equipment through invoice dated 30.12.2013. Subsequent to the sale, the plaintiff had entered into a lease agreement dated 30.12.2013 with the third defendant for a period of 25 years.



C.S.No.789 of 2015

WEB COPY

(iii) Though the above said land and machineries were sold to the plaintiff, the first defendant was in actual physical possession and control of the plant as an operation and maintenance partner. When the insurance was in force, the fire accident had occurred on 02.04.2014 at 2.15 pm. While the personnel of the first defendant were servicing with WTG, the entire WTG and equipments were completely destroyed by fire. The first defendant informed the fire accident to the second defendant. Immediately, the second defendant as an Insurance Company, appointed the Surveyor and conducted survey and inspection of the site on 09.04.2014. The first defendant made claim before the second defendant and the second defendant repudiated the same. At the time of accident, the first defendant was in lawful possession of WTG under the contract. According to the first defendant, they continue to have the insurable interest. The plaintiff has also sent a letters to defendants 1 and 2 calling upon them for payment. However, they refused the same. Hence the plaintiff has filed the suit.

(iv) The subject matter of equipment was insured by the first defendant with the second defendant. Though the first defendant sold the



C.S.No.789 of 2015

property to the plaintiff, as per the agreement, there was a guarantee for maintenance of equipment by the first defendant.

(v) The first defendant was set exparte vide order of this Court dated 02.01.2018. The third defendant is a formal party, which is a lessee of the subject matter. According to the second defendant, there is no privity of contract between the plaintiff and the second defendant. The first defendant has no insurable interest on the date of accident. The second defendant is not liable to pay any loss, since there is no privity of contract entered into between the plaintiff and second defendant. As such the Memorandum of Understanding entered into between the plaintiff and the first defendant is not binding on the second defendant.

(vi) Condition No.3(c) of the General Conditions of the Standard Fire and Special Peril Policy is extracted hereunder:-

"Under any of the following circumstances, the insurance ceases to attach as regard the property affected unless the insured before the occurrence of any loss or damage, obtains the sanction of the Company signified by endorsement upon the policy by or on behalf of the Company:-



WEB COPY



C.S.No.789 of 2015

(a) If the trade or manufacture carried on be altered, or if the nature of the occupation of or other circumstances affecting the building insured or containing the insured property be changed in such a way as to increase the risk of loss or damage by insured Perils.

(b) If the building insured or containing the insured property becomes unoccupied and so remains for a period of more than 30 days.

(c) If the interest in the property passes from the insured otherwise than by will or operation of law."

Though the first defendant made a claim and the second defendant repudiated the claim as per Condition 3(c) of the General Conditions of the Standard Fire and Special Peril Policy, the second defendant is not liable to pay any damages or compensation, since, on the date of accident i.e 02.04.2014, the first defendant has no insurable interest. The sale and transfer of land and equipment by the first defendant to the plaintiff was not intimated to the second defendant, as such the first defendant violated the contractual obligations.

(vii) The insurance contract is a special contract based upon the principle of "*uberrimae fidei*". As per the said principle, it is the duty of the first defendant to disclose any material change in the insurance



C.S.No.789 of 2015

contract whereas, in this case, the first defendant neither informed the second defendant nor obtained sanction from the second defendant upon transfer of subject matter insured. Hence, the claim was made by the first defendant, the second defendant rightly repudiated the same on valid reason.

(viii) It is an admitted fact that the first defendant was the owner of the subject matter insured. At that time of accident, the subject matter was insured with the second defendant. The insurance is valid from 22.05.2013 to 21.05.2014. The second defendant, repudiated the claim preferred by the first defendant, as per as per Condition 3(c) of the General Conditions of the Standard Fire and Special Peril Policy.

(ix) The first defendant is the owner of the subject matter at the time of taking policy. Admittedly, when the insurance policy was in force, the first defendant sold the subject matter insured to the plaintiff. There is a MoU dated 19.12.2013 entered into between the plaintiff and the first defendant. As per Clause 3(c) of the General Conditions of the Standard Fire and Special Peril Policy, soon after the transfer or sale of



C.S.No.789 of 2015

WEB COPY

the property by the first defendant to the plaintiff, the first defendant ought to have intimated the same to the second defendant or prior to selling the subject matter, the first defendant ought to have obtained sanction/ permission from the second defendant.

(x) Neither the first defendant, which was the owner of the subject matter insured, nor the plaintiff, which is the subsequent transferee, had intimated the said transfer to the second defendant, which is the insurer.

(xi) Admittedly, the second defendant is not a party to the MoU dated 19.12.2013 entered into between the plaintiff and the first defendant.

(xii) It is well settled proposition of law that the insurance contract is a special contract based upon the principle of "*uberrimae fidei*". As per the said principle, it is the duty of the first defendant to disclose any material change in the insurance contract whereas, in this case, the first defendant sold the property/subject matter insured, to the plaintiff and admittedly, the same was not intimated to the second defendant. Hence, as per condition No.3(c) of the General condition of



C.S.No.789 of 2015

the Standard Fire and Special Peril Policy, the insurance ceases to attach, if the interest in the property passes from the insured, otherwise than by will or operation of law, unless the insured, before the occurrence of any loss or damage, obtains the sanction of the insurance company signified by endorsement upon the policy.

(xiii) Though the first defendant had sufficient time to intimate the change in the insurable interest before the occurrence of the fire accident, they had failed to do so. The cardinal rule in fire insurance contracts is that the insured shall have the insurable interest at the time of taking the policy and also during the currency of the policy. Admittedly, in the case on hand, there is no contractual relationship between the plaintiff and the second defendant.

(xiv) The first defendant has insurable interest at the time of taking policy, whereas, at the time of accident, the first defendant has no insurable interest, since the ownership of the subject matter insured was transferred to the plaintiff thereby the first defendant violated the condition No.3(c) of the General Conditions of the Standard Fire and Special Peril Policy. Further, on the date of accident, there is no privity



C.S.No.789 of 2015

WEB COPY

of contract between the plaintiff and the second defendant. The plaintiff has not made any claim before the second defendant. The first defendant alone made a claim before the second defendant. The second defendant repudiated the claim of the first defendant, as per condition No.3(c) of the General Conditions of the Standard Fire and Special Peril Policy. The first defendant ceased to be the owner of the subject matter insured. On the date of fire accident, there is no contractual relationship between the plaintiff and the second defendant.

(xv) As already stated, before this Court, the first defendant was set ex-parte. They had not appeared before this Court nor taken any defence.

Hence, the second defendant is not liable to pay any compensation either to the first defendant, since there is no insurable interest on the date of accident or to the plaintiff, since the second defendant is not a party to the MoU dated 19.12.2013.

In so far as the claim made against the first defendant is concerned, if at all the plaintiff has got any right and interest based on the guarantee agreement and the MoU between the plaintiff and



the first defendant, the plaintiff is entitled to claim the compensation and damages only as against the first defendant. Issue No.1 is answered accordingly.

19. Issue No.2 :

Whether the first defendant has insurable interest on the date of occurrence of the fire accident ?

(i) Admittedly, the first defendant had taken the insurance policy with the second defendant with regard to the subject item. One of the conditions of the policy is that under any of the circumstances stated, the insurance ceases to attach as regards the property affected unless the insured, before the occurrence of any loss or damage, obtains the sanction of the company, signified endorsement upon the policy by or on behalf of the company and if the interest in the property passes from the insured otherwise than by will or operation of law.

(ii) If any transfer has taken place during the currency of the policy, the person, who took the policy, has to obtain the sanction of the insurance company signified by endorsement upon the policy, regarding the transfer, before the loss or damages occurs. In this case, the subject



C.S.No.789 of 2015

matter insured under the policy was covered from 22.05.2013 to 21.05.2014. When the policy was in force, the first defendant sold the subject land to the plaintiff under the registered sale deed dated 30.12.2013 and further WTG and incidental equipment were also sold by the first defendant to the plaintiff by invoice dated 31.12.2013. Subsequent to the sale in favour of the plaintiff, the plaintiff had entered into lease agreement with the third defendant for period of 25 years. The accident took place on 02.04.2014. The first defendant neither intimate the transfer nor obtained sanction of the sale to the plaintiff from the second defendant. The first defendant offered one year guarantee and one year free operation and maintenance of WTG. The first defendant had also agreed to operate and maintain the said WTG from the second year for Rs.9 lakhs with annual escalation at 5% from third year onwards. The said WTG was insured by the first defendant with the second defendant. The second defendant, under the above said two policies, had to cover the WTG against the risk of fire or damage or other loss that may be caused to machinery as a result of sudden or accidental electrical and mechanical breakdown respectively.



C.S.No.789 of 2015

(iii) However, condition No.3(c) is very clear that in case of any transfer or sale, or any changes by will or any operation of law, it is mandatory on the part of the owner of the property, who is an insured of the subject matter, to obtain sanction from the insurer/second defendant whereas, admittedly, the first defendant had not obtained any sanction nor gave intimation to the second defendant nor obtained any endorsement in the policy regarding transfer of the subject matter.

(iv) Admittedly, the fire accident took place on 02.04.2014 at 2.52 pm. At that time, the first defendant was not the owner of the property. They had already sold the property to the plaintiff. They had also not complied with condition No.3(c) of the General Conditions of the Standard Fire and Special Peril Policy.

Hence, the first defendant has no insurable interest with regard to the subject matter insured on the date of occurrence of the fire accident.

Issue No.2 is answered accordingly.

20. Issue No.3 :

Whether the plaintiff can claim the benefit



WEB COPY



C.S.No.789 of 2015

*of the insurance contract entered into between
the first defendant and the second defendant?*

(i) Admittedly, the first defendant and the second defendant had entered into insurance contract. During the currency of the insurance policy, ie.,when the policy was in force, the subject matter insured was sold by the first defendant to the plaintiff.

(ii) However, the first defendant had violated the condition No.3(c) stipulated in the policy and the first defendant has no insurable interest on the date of fire accident. Further, the second defendant is not a party to the MoU entered into between the plaintiff and the first defendant. Hence, there is no privity of contract between the plaintiff and second defendant. In the absence of any specific contract or liability, the plaintiff cannot claim the benefit of the insurance contract entered into between the first defendant and the second defendant. If at all the plaintiff has any right/claim, they can claim against the first defendant alone, if the risk is covered under the MoU entered into between the plaintiff and the first defendant.



C.S.No.789 of 2015

WEB COPY

(iii) Since the second defendant is not a party to the MoU, which was entered into between the first defendant and the plaintiff and as already stated, the first defendant violated the condition of the policy, specifically condition 3(c) of the Standard Fire and Special Perils Policy dated 29.05.2013 issued by the second defendant, the first defendant lost their insurable interest. Admittedly, the plaintiff has not made any claim with the second defendant. The first defendant insured alone had made the claim with the second defendant. The second defendant has also repudiated the same citing condition 3(c) of the Standard Fire and Special Perils Policy. The first defendant has not challenged the same nor they filed any suit as against the second defendant. It is only the plaintiff, who filed this suit.

(iv) As already stated, the first defendant, which is the insured of the subject matter, was not the owner of the property at the time of accident and they have no insurable interest on the date, when the accident occurred. There is no privity of contract between the plaintiff and the second defendant. Rather, the first defendant had lost the



C.S.No.789 of 2015

insurable interest on the subject matter insured on the date of accident.

WEB COPY

Hence the Court holds that the plaintiff cannot claim the benefit of insurance contract entered into between the first defendant and the second defendant. Issue No.3 is answered accordingly.

21. Issue No.4 :

Whether the defendants 1 and 2 are jointly and severally liable to pay Rs.10,00,000/- (Rupees Ten Lakhs only) per month as damages for loss of energy from the date of plaint till realization?

Since issues No.1 to 3 are answered against the plaintiff, defendants 1 and 2 are not liable either jointly and severally to pay Rs.10,00,000/- per month as damages for loss of energy from the date of plaint till realization. If at all, the plaintiff has got any claim or right, they can claim only from the first defendant alone. The first defendant had already been set exparte before this Court. Hence, it is for the plaintiff to claim either compensation or damages only from the first defendant and not from the second defendant.

22. Issue No.5 :



C.S.No.789 of 2015

WEB COPY

To what other reliefs, the parties are entitled ?

(i) As already held, the subject matter insured is covered under the Insurance Policy and the first defendant transferred the subject matter insured with the second defendant. Although the accident had occurred during the policy period, the first defendant, which had taken the policy and insured the subject matter, has ceased to be the owner of the subject matter at that time. Further, the first defendant had violated the policy condition and the first defendant lost their insurable interest.

(ii) The second defendant is not a party to the MoU entered into between the plaintiff and the first defendant. Though the plaintiff has beneficial interest in WTG, as the first defendant has lost their insurable interest, the claim made by the first defendant was repudiated by the second defendant by citing condition No.3(c) of the Standard Fire and Special Perils Policy and the same was not challenged by the first defendant before a court of law. Further, there is no privity of contract between the second defendant and the plaintiff. The first defendant had already been set ex-parte on 02.01.2018 and the first defendant has also



C.S.No.789 of 2015

WEB COPY

not taken any steps to set aside the said ex-parte order. Till today, the first defendant remained exparte. The second defendant has also repudiated the claim of the first defendant and the same was not challenged by the first defendant in a court of law. Therefore, all the issues are answered against the plaintiff. The decisions relied upon by the learned counsel for the plaintiff are not applicable to the facts of this case.

23. In view of the above, the claim made by the plaintiff as against the second defendant is dismissed. Consequently, the suit is dismissed as against the second defendant. **It is made clear that in so far as the claim made against the first defendant is concerned, if at all the plaintiff has got any right and interest based on the guarantee agreement and the MoU between the plaintiff and the first defendant, the plaintiff is entitled to claim the compensation and damages only as against the first defendant in a manner known to law.** Consequently, all connected pending applications, if any, are also dismissed. There shall be no order as to costs.



WEB COPY



C.S.No.789 of 2015

02.08.2024

Plaintiff's witness: P.W.1 – Mr.S.Diraviam

Defendants' witness: D.W.1 – Mr.J.Ramkumar

Documents exhibited by the plaintiff:

SNo	Exhibit	Date	Description of the document
1	Ex.P1	29.05.2013	Photocopy of the Standard Fire and Special Perils Policy dated 29.05.2013 issued by the second defendant.
2	Ex.P2	29.05.2013	Photocopy of the Machinery Insurance Policy dated 29.05.2013 issued by the second defendant
3	Ex.P3	19.12.2013	Photocopy of the MOU dated 19.12.2013 between the plaintiff and the first defendant
4	Ex.P4	-	Photocopy of the Ledger Account of the first defendant in the books of the plaintiff from November 2013 to October 2014
5	Ex.P5	30.12.2013	Photocopy of the sale deed dated 30.12.2013 executed by the first defendant in favour of the plaintiff
6	Ex.P6	30.12.2013	Photocopy of the invoice dated 30.12.2013 issued by the first defendant in favour of the plaintiff for sale of WTG
7	Ex.P7	-	Photocopy of the Debit note issued by the



C.S.No.789 of 2015

			first defendant to the plaintiff
8	Ex.P8	-	Photocopy of the Lease deed executed by the plaintiff in favour of the third defendant
9	Ex.P9	09.04.2014	Photocopy of the letter dated 09.04.2014 by the surveyor to the first defendant
10	Ex.P10	-	Original letter by the first defendant to M/s.Indowind Energy Limited, Chennai
11	Ex.P11	-	Photocopy of the invoice raised by M/s.R.S.windtech Engineers(P) Ltd., in favour of the first defendant
12	Ex.P12	-	Original letter by the first defendant to M/s.Indowind Energy Ltd., Chennai
13	Ex.P13	07.06.2014	Photocopy of the letter dated 07.06.2014 by the first defendant to plaintiff
14	Ex.P14	07.06.2014	Photocopy of the letter dated 07.06.2014 by the first defendant to plaintiff
15	Ex.P15	21.07.2014	Computer copy of E-mail dated 21.07.2014 sent by the first defendant to the plaintiff
16	Ex.P16	06.10.2014	Photocopy of the claim dated 06.10.2014 made by the first defendant with the second defendant.
17	Ex.P17	-	Photocopy of the Ledger account of the first defendant (R.S.Windtech) in the books of the plaintiff from April 2014 to October 2014
18	Ex.P18	-	Photocopy of the Ledger Account of the first defendant (Sri Vinayaka Transport) in the books of the plaintiff from April 2014 to October 2014
19	Ex.P19	-	Photocopy of the Ledger Account of the first defendant (Sri Sai Construction) in the



C.S.No.789 of 2015

WEB COPY

			books of the plaintiff from April 2014 to October 2014
20	Ex.P20	30.01.2015	Photocopy of the Repudiation Letter dated 30.01.2015 sent by the second defendant to the first defendant.
21	Ex.P21	22.04.2015	Original Letter dated 22.04.2015 by the plaintiff to the first defendant.
22	Ex.P22	11.05.2015	Original reply dated 11.05.2015 by the first defendant to the plaintiff.
23	Ex.P23	-	Office copy of Lawyer notice dated issued by the plaintiff to the first and second defendants.
24	Ex.P24	31.07.2015	Original reply notice dated 31.07.2015 issued by the second defendant to the plaintiff
25	Ex.P25		Original Board Resolution passed by the plaintiff.

Documents exhibited by the Defendant:

SNo	Exhibit	Date	Description of the document
1	Ex.D1	02.08.2021	Authorisation letter dated 02.08.2021
2	Ex.D2	-	Standard fire and special perils policy's terms and conditions

02.08.2024



C.S.No.789 of 2015



WEB COPY



C.S.No.789 of 2015

P.VELMURUGAN, J.

mfa

C.S.No.789 of 2015

02.08.2024