



C.R.P.No.2093 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2024

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THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2093 of 2023

M/s.Simplex Infrastructures Limited
No.82-83, Nehru Palace
"Vaikunth" 2nd Floor, New Delhi – 110 019 .. Petitioner

Vs.

M/s.Tecno Group of Companies
Rep. by Authorized Signatory
Mr.Huzefa Chhagan, New No.258, Old No.193
Linghi chetti Street
Chennai – 600 001. .. Respondent

Prayer: Petition filed under Article 227 of the Indian Constitution, to set aside the order of the Commercial Court at Egmore, Chennai ("Commercial Court") dismissing the application filed by the petitioner to reject the plaint in I.A.No.1 of 2021 in C.O.S.No.1319 of 2022 dated 27.01.2023.

For Petitioner : Mr.Thriyambak J. Kannan

For Respondents : Mr.H.Surendar

ORDER

This civil revision petition arises against the order passed in I.A.No.1 of 2021 in C.O.S.No.1319 of 2022 on the file of the Commercial Court at Egmore, Chennai.



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2. O.S.No.5268 of 2017 was originally presented before the XIV Assistant City Civil Court at Chennai. This was a suit, filed for recovery of a sum of Rs.8,81,338/- together with subsequent interest from the date of the plaint till the date of realization.

3. The case of the plaintiff is that the defendant/civil revision petitioner had entered into contract with three entities, namely,

- (i) Global Engineering;
- (ii) Glotech Engineering Pvt. Ltd.
- (iii) Techno Traders

It had defaulted payment of several sums as stated in paragraph 4 (four) of the plaint. Apart from that, due to non-issuance of "C" Forms, the plaintiff pleads he had incurred a liability of Rs.2,81,951/-. In all, the plaintiff demanded the aforesaid sum.

4. Though the cause title of the plaint reads as if the plaintiff is Techno Group of Companies, in the short cause title as well as in the description in paragraph 3 (three) of the plaint, it is shown that the plaintiff is one *Mr.Huzefa Chhagan*, who is a partner in Global



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Engineering and Techno Traders, and is a Director of Glotech Engineering Pvt. Ltd., and the Authorized Representative of all the three entities.

5. On being served with the summons, the defendant entered appearance and presented a written statement. In the mean time, the suit stood transferred from the file of the XIV Assistant City Civil Court at Chennai to the file of the Commercial Court at Egmore, Chennai.

6. While the suit was pending before the XIV Assistant City Civil Court at Chennai, an application was taken for rejection of plaint in I.A.No.1 of 2021. The allegation of the defendant is that while conceding to the fact that certain transactions have been entered into between the defendant and Global Engineering, Glotech Engineering Pvt. Ltd. and Techno Traders, it would plead that it had nothing to do with the Techno Group of Companies. On that ground, it wanted rejection of plaint.

7. On receipt of a counter from the plaintiff, the Court came to



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the conclusion that the application for rejection of plaint does not fall within the requirements of Order VII Rule 11 of the Civil Procedure Code, 1908 and therefore, dismissed the application. Challenging the same, the present civil revision petition arises before this Court.

8. *Mr.Thriyambak J. Kannan* would submit that in terms of the Civil Procedure Code, 1908, the plaint has to clearly disclose the cause of action as against the defendant. If at all the plaint can be only at the hands of Global Engineering, Glotech Engineering Pvt. Ltd. and Techno Traders, with whom the defendant had transactions. He would state that the defendant does not know an entity "Techno Group of Companies" and therefore, the suit is not maintainable.

9. *Per contra, Mr.H.Surendar* would state that he had produced the partnership deed for Global Engineering and Techno Traders to substantiate *Mr.Huzefa Chhagan* is a partner in those two firms. He adds the said person is also a Director and the Authorised Representative of the Corporate entity, namely the Glotech Private Limited. He would also state that, at best, it is the mis-description of the plaintiff and it does not deserve rejection of plaint.



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10. I have carefully considered the arguments of *Mr.Thriyambak J. Kannan* and *Mr.H.Surendar*.

11. The plaintiff is one *Mr.Huzefa Chhagan*. This is clear from the long cause title given in the plaint. He has presented the suit as the Authorised Representative of a Private Limited Company under the name and style of Glotech Private Limited and on the strength of being a partner of Global Engineering and Techno Traders. In paragraph 4 of the plaint, he has given the details of the dues from the defendant for each of the entities. He seeks to enforce the Right on behalf of the three entities together.

12. The plea of *Mr.Thriyambak J. Kannan* that Techno Group of Companies is not an entity in the eye of law might be a tempting argument at the beginning, but a closer reading of the plaint discloses that the suit has been filed by the person who is the Director of a Private Limited Company and a partner of the other two entities and an Authorised Representative for all the three entities.



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13. In terms of the Civil Procedure Code, 1908, in case there is mis-description in plaint, it can always be amended at any stage of the proceedings. In fact, the amendment even could be carried out at the stage of appeal. This is because, the defendant is not at loss or is going to be taken by surprise if the actual entities are brought forth before the Court.

14. In fact, I do not find any confusion in the mind of the defendant. The defendant has conceded that it had contractual relationship with Global Engineering, Glotech Private Limited and Techno Traders. That being the circumstances of the case, I am not inclined to reject the plaint on the ground of mis-description. It is always capable of correction and it is up to the plaintiff to do the needful. However, for the sin of mis-description by the plaintiff, I am not inclined to reject the plaint.

15. Consequently, I do not find any error in the order passed by the Commercial Court in I.A.No.1 of 2021 in C.O.S.No.1319 of 2022



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passed vide order dated 27.01.2023 and the same stands confirmed.

The civil revision petition is dismissed. Cost in the revision will follow the result in the suit.

08.07.2024

Neutral Citation : Yes/No

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V. LAKSHMINARAYANAN,J.

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