



WEB COPY

CMA.No.698 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.698 of 2023

Sree Rengaraj Ispat Industries (P) Ltd.,
Rep. by its Director,
S.Pradeep Kumar,
No.99, Sankari Main Road,
Nethimedu, Salem – 636 002.

...Appellant

Vs.

1.Mascom Steel (India) Pvt. Ltd.,
Rep. by its Managing Director,
Irfan M.A.
Near Industrial Development Area,
Erumathala Post,
Aluva – 683 112.
Kerala State.

2.Supprime Steel Industries,
Rep. by its Managing Partner,
Irfan M.A.,
Kuttamasserry Post,
Aluva – 683 102,
Kerala State.

...Respondents



Prayer: Civil Miscellaneous Appeal filed under Order XLIII Rule 1(a) of the Civil Procedure Code praying to set aside the order dated 26.09.2022 passed by the learned District Judge, Commercial Court, Salem in C.O.S.No.17 of 2022.

For Appellant : Mr.L.Mouli

For Respondents : Mr.G.Derrick Sam for R2

R1 – No appearance

J U D G M E N T

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

Challenge in this appeal is to the order of the Commercial Court, Salem made in C.O.S.No.17 of 2022 dated 26.09.2022 returning the plain on recording a finding that the parties had agreed to invest exclusive jurisdiction in the Courts at Palakkad and hence the Commercial Court at Salem lacks jurisdiction.

2. The plaintiff laid a suit for recovery of money to the tune of Rs.1,59,90,679/- said to be due on sale of MS Billets made to the defendants 1 and 2 who have their factories at Aluva in Kerala. The bookings of these



orders were made by the plaintiff's Branch Office at Palakkad. The tax invoices issued by the plaintiff contained a specific clause which reads as follow:-

“Subject to Palakkad jurisdiction.”

3. Upon receipt of the notice in the suit, the defendants raised the question of jurisdiction and contended that only the Courts at Palakkad will have jurisdiction to entertain the suit. The learned District Judge accepted the contention of the defendants based on the above clause as found in the tax invoices issued by the plaintiff. The learned Commercial Judge concluded that it is only the Courts at Palakkad which will have jurisdiction in view of the fact that the parties have agreed to invest the jurisdiction in the Courts at Palakkad, which also have jurisdiction as a part of the cause of action had arisen within the jurisdiction of the Palakkad Courts. Upon such conclusion, the learned Commercial Judge returned the plaint for re-presentation before the proper Court. Hence, this appeal.

4. We have heard Mr.L.Mouli, learned counsel appearing for the appellant and Mr.G.Derrick Sam, learned counsel appearing for the 2nd



respondent. The 1st respondent though served is not appearing either in person or through counsel duly instructed.

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5. Mr.L.Mouli, learned counsel appearing for the appellant would vehemently contend that the orders are booked by the Branch Office at Palakkad but supplies were effected in Salem. Therefore, part of the cause of action has arisen within the jurisdiction of the Court at Salem. Therefore, the Courts at Salem will have jurisdiction.

6. We are unable to countenance the said submission of the learned counsel. The law is settled to the effect that the parties can by agreement invest exclusive jurisdiction in any one of the Courts, if more than one Court would have jurisdiction. The plaintiff has consciously invested the jurisdiction in the Courts at Palakkad by including the above condition to the tax invoice. Therefore, the plaintiff cannot be now heard to contend that the Courts at Salem where a part of the cause of action had arisen will also have jurisdiction.



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7. We do not see any reason to interfere with the order of the learned Commercial Judge. The appeal therefore fails and it is accordingly **dismissed.**

8. The Registry is directed to return the original plaint to the learned counsel to enable him to re-present the same. The plaintiff will have three months time to re-present the suit at the Court at Palakkad.

(R.S.M., J.) (R.S.V., J.)
01.02.2024

dsa

Index :Yes / No

Internet :Yes / No

Neutral Citation :Yes / No

Speaking order / Non-speaking order

To

The District Judge,
Commercial Court, Salem.



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R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.

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