



WEB COPY



A. No.6309 of 2023

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in
C.S. (COMM. DIV.) No.291 of 2023

ABDUL QUDDHOSE, J.

M/s.Craft Mold (India) Private Ltd.	...	Applicant
vs.		
M/s.Aadhithya Foundation	...	Respondent

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The suit has been filed for recovery of money. The plaintiff has engaged the services of the respondent / defendant for the construction of Factory building. As seen from the averments contained in the plaint as well as in the affidavit filed in support of this application, there is a dispute pertaining to two Work Orders issued by the applicant /plaintiff to the respondent / defendant. In One Work Order, the contract price is disclosed and in the other Work Order, a different contract price is disclosed. The plaintiff claims that in view of the delay on the part of the defendant to complete the work they have to engage the services of a third party. They claim loss at the rates fixed under the 2nd Work Order. However, as seen from the counter affidavit filed by the respondent / defendant, the respondent / defendant disputes the 2nd Work Order and they claim that only the 1st Work Order was issued and based on the



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same payments were made by the plaintiff to the defendant. They also dispute that there was a delay on their part to complete the work.

According to them, no loss has been suffered by the plaintiff.

2. After giving due consideration to the aforementioned contentions of the respective parties, this Court is of the considered view that triable issues are involved and therefore the directions sought for in this application cannot be granted by this Court at the interlocutory stage. Necessarily the parties will have to go for trial.

3. For the foregoing reasons, this Court is of the considered view that at this interlocutory stage, the relief sought for by the applicant / plaintiff cannot be granted as several triable issues are involved which can be adjudicated only after trial.

4. Accordingly, this application is disposed of in the aforementioned terms. Both the parties are directed to go for trial.

5. Post the matter for filing of written statement by the defendant on **14.03.2024**.

26.02.2024

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