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OA.Nos.730 to 738 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 19.02.2025	PRONOUNCED ON 23.04.2025
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CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

OA.Nos.730 to 738 of 2024

in

C.S.No.235 of 2024

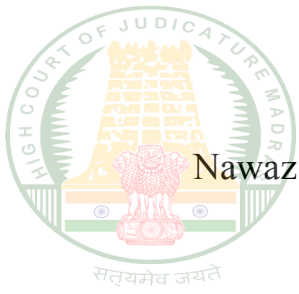
OA.No.730 of 2024

1.Refex Green Mobility Limited,
Having its registered office at,
2nd Floor, No.313,
Refex Towers Sterling Road,
Valluvar Kottam High Road,
Nungambakkam,
Chennai – 600 034
Rep., by its Authorized Signatory,
Mr.Sachin Navtosh Jha

2.Refex Ev Fleet Services Pvt., Ltd.,
(Formerly 03 mobility private Limited)
Having its registered office at,
19, 3rd Floor, Achaiah Chetty Arcade,
Achaiah Chetty Layout, Mekhri Circle,
RMV Extension, Sadashivanagar,
Bengaluru – 560 080
Rep., by its Authorized Signatory,
Mr.Sachin Navtosh Jha

... Applicants/Plaintiffs

vs.



Nawaz Shameer Khan

OA.Nos.730 to 738 of.



... Respondent/Defendant

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For Applicant : Mr.Arun C.Mohan for
Ms.Lakshana Viravalli

For Respondents : Mr.Ravi Sr., Counsel for
M/s.Ravi Law Chambers

ORDER

The original application O.A. No 730 of 2024 has been filed seeking to grant an order of ad interim injunction restraining the respondent and his associates from issuing and circulating any defamatory or malicious statements in any form against the applicants.

The original application O.A. No. 731 of 2024 has been filed seeking to grant an ad interim injunction restraining the respondent and his affiliates from orchestrating any unrest or protest among the employees of the applicants.

The original application O.A. No 732 of 2024 has filed seeking to grant an order of ad interim injunction restraining the respondent and his affiliates from interfering in the affairs of the Applicants.



The original application O.A. No. 733 of 2024 has been filed seeking to grant an order of ad interim injunction directing the Respondent from soliciting or diverting his affiliates.

The original application O.A. No 734 of 2024 has been filed seeking to grant an order of ad interim injunction restraining the respondent from commencing or continuing to be a part of any business which directly or indirectly competes with the applicants.

The original application O.A. No 735 of 2024 has been filed seeking to grant an order of interim injunction directing the respondent to disassociate himself from representing as an active employee of the applicants.

The original application O.A. No 736 of 2024 has been filed seeking to grant an order of ad interim injunction restraining the respondent from using the word 'REFEX' or any other deceptively similar words in relation to any businesses which are operated by him or his affiliates.

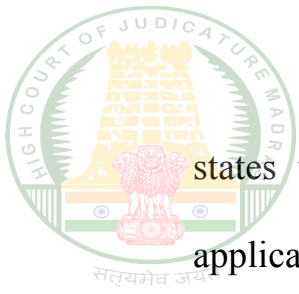
The original application O.A. No 737 of 2024 has been filed seeking to grant an order of ad interim injunction directing the respondent to return the entire confidential data of the applicants.



The original application O.A. No 738 of 2024 has been filed seeking to grant an order of ad interim injunction directing the respondent to replace the missing 41 EV chargers and stepneys.

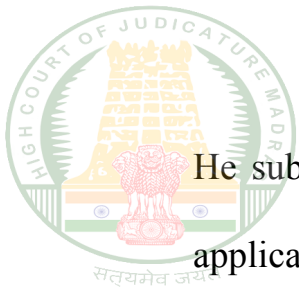
2) Mr. Arun C. Mohan the learned counsel for the applicants submits that the 1st applicant is engaged in the business of providing Mobility services. The 1st applicant provides a gamut of services and enjoys a good position and reputation in the market and has several tie-ups with many leading automobile companies . He submits that the on 24.08.2022 the Bangalore International Airport Limited (BIAL) issued a Request for Proposal (RFP) for operators for Airport Fleet Taxi Services between the city of Bengaluru and Kempegowda International Airport.

3) He contends that the respondent approached the 1st applicant as the representative of the company named O3 Mobility Private Limited where the respondent holds a 60% share along with OPEL Transportation Services Pvt.Ltd. holding a 40% share. He submits that O3 emerged as the successful bidder for above RFP by the BIAL and a financial assistance of Rs. 5,00,00,000 (Rs. 5 crores) was specifically sought from the 1st applicant. He



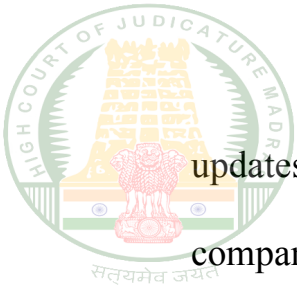
states that the Respondent agreed to form a consortium between the 1st applicant and O3 Mobility. As per the understanding under this Consortium the 1st applicant agreed to pay Rs. 1 Crore as the incentive to the respondent under two conditions (1) that the respondent & OPEL would dilute their shares in O3 and a portion of the Ownership is transferred to the 1st applicant (2) The Respondent would commence operation of the BIAL project before 31.12.2023. In September 2023 the respondent and the 1st applicant approached the BIAL with a consortium arrangement where the 1st applicant would hold 49.99% and the respondent would hold 50.01% of the O3 Mobility, which arrangement was approved by BIAL on 25.08.2023. He further submits that the 1st applicant funded O3 Mobility with a sum of INR 5 Crores on 09.11.2023. Out of which INR 4 crores was allocated towards the submission of Performance Bank guarantee. On 22.11.2023 an additional amount of INR 5,21,72,380 was infused by the 1st applicant into O3 Mobility.

4) He contends that on 28.12.2023 the contract with BIAL was officially signed and the Consortium began operations . He further submits that the respondent and his Spouse held the sole control over the O3 Mobility as the directors , where the respondent's wife remained as a director till 06.02.2024.



He submits that as a part of the regular audit process on 02.02.2024 the 1st applicant found unaccounted withdrawals amounting to Rs. 50,00,000/- by the respondent was found and the same was accepted by him in the meeting convened to address the above misappropriations, where the respondent executed a Compromise Undertaking and Indemnity undertaking in favour of the 1st applicant to ensure transparency and accountability. A Compromise Agreement was signed on 18.02.2024 where specific admission regarding the above mentioned misappropriation . He further submits by explicit wording that the jurisdiction of all the disputes arising out of this Compromise Agreement was vested with court of Chennai .

5) He further contends that the O3 Mobility was renamed and rebranded as “REFEX EV Fleet Services Pvt. Ltd.” (the 2nd Applicant). The same was informed to the BIAL . He states that the respondent was designated as “Director” and placed under the Employment Contract with Refex EV since 01.05.2024. He submits that on 15.05.2024 respondent contacted the Assistant manager of the Company and instructed him to hand over 24 EV charging box and 17 3.3 KW charging box to a third party named Chargzera Tech Pvt. and also demanded him to orchestrate a strike. He further submits that the respondent tried to influence the employees of the company to issue false



updates regarding the inventory status , the respondent misappropriated the company properties like electric car, 30 stepney wheels without the consent or authorization of the company. Hence he submits that on considering the gravitas of the actions of the respondent which caused irreparable and abject harm caused to the the operations and reputation of the applicant , the termination letter was issued on 11.08.2024 according to the Clause 10.2 under the Employment agreement.

6) He further contends that a complaint was filed by the 2nd applicant against the respondent in Sampigehalli sub division, Bengaluru city. The FIR was registered under the sections of 303(2), 314 and 316 (2) of BNS. Inspite of the termination, the Respondent is continuously reaching out to BIAL and projecting an entirely false and misleading narrative which has caused and is continuing to cause a greater harm to the reputation and goodwill of the applicants .He hereby concludes that from the above facts the prima facie has been made out and the applicants have filed the above applications seeking interim injunctions against the respondent.

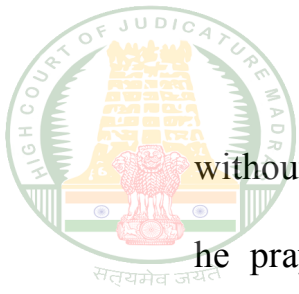
7) He further submits that the respondent has also been removed as



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Director as all his shares in the second applicant has been transferred to which the learned Senior counsel for the respondent would submit that it would be open for the respondent to challenge such proceedings in the manner known to law and this Court in these proceedings cannot consider such transfer to grant a blanket injunction. The learned counsel relying upon clauses in an alleged compromise entered between the applicants and the respondent would contend that the respondent has been acting against the interest of the applicants. He would take this Court through the employment agreement dated 31.05.2024 to contend that on termination the applicant being an option holder can exercise within two days to purchase the shares held by the employee in the company and in pursuance to the same, applicant has exercised the right and has transferred all the shares held by the respondent and therefore, the respondent cannot act either as an employee or Director to interfere with the affairs of the second applicant.

8) Mr.Ravi , the learned Sr.Counsel for the Respondent would on the other hand contend that the interlocutory Applications seeking interim injunctions filed by the plaintiffs/applicants are not maintainable in law or on the facts of the case. He submits that the applications are frivolous and



without merit and is an abuse of the processes of the Hon'ble court. Therefore

he prays that the Applications are liable to be dismissed in limine with

exemplary costs. He points out that the applicants have not made out a *prima*

facie case for the grant of the interim injunctions nor they have made out a

case for Balance of convenience being in their favour.

9) He further contends that the Respondent is still the major share holder of 50.01% in the applicants companies . He submits that the respondent was issued the letter of termination dated 11.08.2024 and a notice dated 29.08.2024 in reply to the show cause notice dated 13.08.2024 and was immediately removed from all the operations , his access to the business whatsapp groups and company's email was blocked. He contends that termination of the respondent as the director of the company is against the well settled principles of law and the provisions of the Companies Act 2013. He submits that respondent later learnt that the Plaintiff had highlighted the alleged misappropriation of the company's property as the reason for his termination, which is false . The alleged third party along whose cooperation the respondent was blamed for the misappropriation had recorded before the



police on 03.09.2024 ,in which he has accepted that the applicant company was the one who issued those EV chargers for testing .

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10) He would submit that the respondent was only instrumental in being a successful bidder with BIAL. Even though O3 mobility was the successful bidder, it was only through a qualification of another entity managed by the respondent, O3 mobility was declared as 'the successful bidder'. The said Opel transport has not been made as a party. He would further contend that the respondent performs to functions in the second applicant, as Director of the company . Hence, he would submit that he has been terminated the whole time Director and it can only be done in the manner known to law. He would further contend that what the applicants are attempting is not only hijack the business that has been successfully created by the defendant but also assets of Opel Transport another entity created by the defendant without it being the party to the proceedings. He would contend that firstly the applicants have to prove that the defendant has been validly terminated and only then they can seek an injunction. That apart, he would contend that the various reliefs sought for on apprehensions which are not well founded and certain relief beyond the jurisdiction of this Court. Therefore, he prays this Court to dismiss



the application.

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11) I have considered the rival submissions made by the learned counsel appearing on either side and perused the materials placed on record.

12) Undisputed facts are that the respondent being a major share holder was in management of O3 Mobility Pvt., Ltd. The said company was a successful bidder of a contract with BIAL. For certain monetary commitment, the said company made arrangements with the first applicant whereby the second applicant came into being. In the second applicant, the first applicant held 49.9% shares and the defendant held 50.1% shares, under a share subscription cum share holders agreement, which also provided for a preemptive purchase of shares.

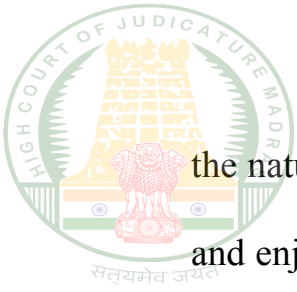
13) The defendant admitting to certain allegations has also executed a compromise undertaking and an undertaking cum indemnity in the month of Feb 2024. Thereafter, on 31.05.2024, an Employment Agreement was entered into between the second applicant and defendant w.e.f., 01.05.2024. So the defendant played two roles i.e., as shareholder Director and employee of the



second applicant. Under the shareholding agreements the shareholders i.e., the first applicant/defendant and his wife had right of preemptive purchase of shares. Under the Employment Agreement, the promotees of the company who are the option holders are entitled to purchase the equity share of the employee in the company by issuing a notice in that regard.

14) A reading of the Employment Agreement does not throw any right on who the company promoters (Option holders) are? When this Court fell back on the share subscription cum shareholders agreement which contains an Article for definition, it was found that the same also did not define Option holder, Promoters of the company. Even though an attempt has been made to define “Option price” “Option Notice”, it could be seen that it referred to as the same meaning in Article 9.8.2. However, the said agreement did not contain either 9.8.2 (i) or (ii) but only contained 9.8.2(iii).

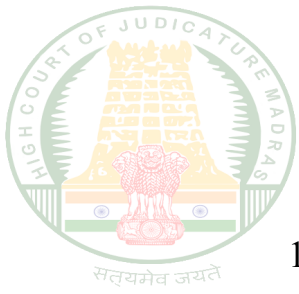
15) Be that as it may, the Employment Agreement does not envisage transfer of shares in favour of the employee in lieu of the employment. As already indicated the share holders had a right of preemptive purchase of other shares. Clause 10.5.2 & 10.5.3 is in the nature of penalty. Such a penalty is in



the nature of taking away one's property which he is otherwise entitled to hold and enjoy. Even assuming such a clause is valid it should be seen that only for a clause if the employee is terminated then the Option holder is entitled to exercise call option. A cause for termination which entitles a promoter to grab a rightful property of another should be exercised only after a thorough enquiry abiding by the principles of natural justice. In this case, a notice of termination and termination are on 11.08.2024 and 12.08.2024 respectively. Hence, this Court is of the view that such termination is in violation of natural justice.

16) This Court would have accepted such termination which has a consequence of taking back a property/share given to an employee at the time of his employment, but not in a case where the pre-owned property of an employee is sought to be grabbed under the guise of termination. Even a state exercising eminent domain does not have the authority to do so, as it will be in violation of Article 300A of the Constitution of India.

17) Further clause 10.5.2 opens with a *non obstante* clause only with regard to clauses in the Employment Agreement and the same does not supersede the share subscription cum share holding Agreement.

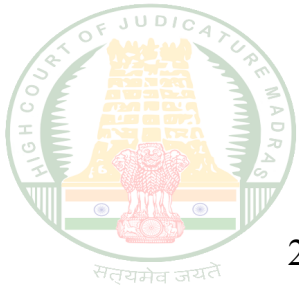


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18) The employment agreement and the share subscription cum share holding agreement are two independent agreements, which cannot be said to over-write each other. In such view of the matter, this Court *prima facie* finds no merits in O.A.No.732 of 2024 and accordingly, the same is dismissed.

19) As regards O.A.No.735 of 2024, since the employment agreement had been terminated, the applicant cannot represent himself as employee, but however, the same will not preclude the respondent to continue his possession as a Director of the second applicant as a major share holder. Accordingly, the O.A.No.735 of 2024 is allowed.

20) It has been admitted that the respondent has also carrying on similar business even at the time when he had bidden for the BIAL project and therefore, the prayers sought in O.A.Nos.733 & 734 of 2024 also cannot be entertained. Further the reliance placed on the negative covenant in the employment agreements can only operate during the course of his employment and not after the employment. Therefore, O.A.Nos.733 & 734 of 2024 stand rejected.



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21) The prayer in O.A.Nos.730, 737 & 738 of 2024 have also been sought as a main relief in the Suit clubbed with the claim for damages. Unless or until such prayers in the Suit are answered after trial, this Court is unable to entertain the very same prayers at the interim stage. For the said reasons, the Applications in O.A.Nos.730, 737 & 738 of 2024 stand rejected.

22) The prayer in O.A.No.731 of 2024 is an apprehension that had arisen in the minds of the plaintiffs, which is not supported by any substantial materials for this Court to entertain the same. In such view of the matter, the same also stands rejected.

23) The prayer in O.A.No.736 of 2024 has been deceptively introduced in the present Suit, which can be only dealt with by the appropriate Court dealing with the intellectual property rights and therefore, this Court granting liberty to the applicant to take out the necessary application before the appropriate Court deems it fit to close the application and accordingly, the said Application stands closed.



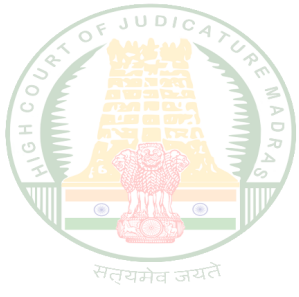
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24) In fine, O.A.No.735 of 2024 is allowed; O.A.No.732 of 2024 is dismissed. O.A.Nos.730, 731, 733, 734, 737 & 738 of 2024 are rejected and O.A.No.736 of 2024 is closed. However, there shall be no order as to costs.

23.04.2025

Index : Yes / No
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OA.Nos.730 to 738 of.

K.KUMARESH BABU.J.,

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Pre-Delivery Order in
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in
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23.04.2025