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A NO. 5772 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 06.01.2025

Pronounced on : .01.2025

CORAM

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

A. No. 5772 of 2024

AND

CS.No. 957 of 2010

Indira Industries Pvt Ltd

Rep. By Its Md K.Ponnuswamy, No.9, Vasanth Apartments,
Door No.4, 3rd Floor, Montieth Lane, Egmore, Chennai - 8.

Applicant(s)

Vs

M/s.Greens Power Equipments China Ltd
And 5 Others, China Ltd Also Known As M/s.Greens Power
Equipments India P Ltd.,Rep. By Mr.Bharkar
Namasivayam,Off. At No.3,Avenue Rd,1st and 5 Others

Respondent(s)

CS NO. 957 of 2010

India Industries Pvt Ltd

Rep. By Its Md K.Ponnuswamy,,,,,, No.9, Vasanth
Apartments, Door No.4, 3rd Floor, Montieth Lane, Egmore,
Chennai - 8.

Plaintiff(s)

Vs

M/s.Greens Power Equipments
Rep. By Its Md K.Ponnuswamy,,,,,, No.9, Vasanth
Apartments, Door No.4, 3rd Floor, Montieth Lane, Egmore,
Chennai - 8. and 5 Others

Defendant(s)

A NO. 5772 of 2024

For Applicant(s):

M/s.Surana and Surana
G.Kalyan Jhabakh

For Respondent(s):

CS NO. 957 of 2010

For Plaintiff(s):

M/s.Surana & Surana



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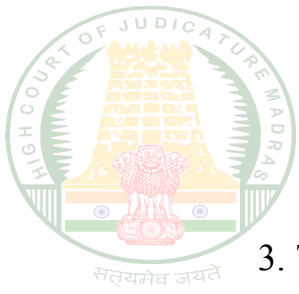
For Pltf.-d.No.7767/13
M/s.G.JeremiahFor D4 - Dno.18799/11M/s.Perumbulavil
RadhakrishnanA.M.Basheer RahmanK.Ramesh KumarFor D1-
d.No.1975/17(d1 W/s Filed)(d2 D3 D5 & D6 Set ExparteOn
19/12/2016)(d4 Set Exparte On 09/01/2017)

For Defendant(s):

ORDER

This application has been filed to permit the plaintiff to mark the photocopies of the documents, described in the Judges Summons.

2. The learned counsel for the applicants/plaintiffs submitted that on 29.09.2022, PW2 Mr.L.Ramadoss, retired Deputy Commissioner of Police and a part of technical Committee named G4S Security Services that investigated the unlawful activities happening in the premises of the applicant/plaintiff's Company. He further submitted that due to the age of the documents and the logistic issues caused due to the pandemic, inadvertently, the remaining documents, stated in the schedule to Judges Summons, were lost. Eventhough efforts were taken to search for the originals of those documents, they are currently not traceable. He further submitted that if the true photocopies of the said documents are not taken on record and received in evidence, the same would cause irreparable loss and hardship to the applicant/plaintiff. He further submitted that non-production of the said documents is neither willful nor wanton but only because they are not traceable despite best endeavours to produce them before this court. If this application is allowed, no hardship would be caused to the respondents and the balance of convenience is in favour of the applicant.

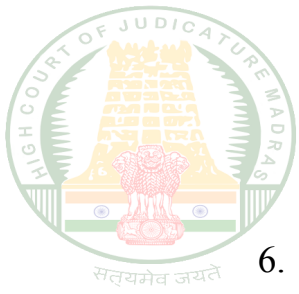


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3. The learned counsel for the first respondent/first defendant submitted that in the event of xerox copies being produced, the very essence of the veracity of the investigation and proceedings said to have been conducted become nullified by the documents now provided by the plaintiff. He further submitted that the plaintiff's witness now sought to be examined is a private witness though an attempt is being made by the plaintiff to give a criminal colour investigation by the Government machinery. He further submitted that the applicant has not narrated how and where they are stored and where they were lost. He further submitted that the applicant has not explain that why the PW2 does not have the originals. Hence, this application is a fictitious and fabricated one and an attempt to bring in contemporary secondary evidence to bring disrepute to the first respondent. He further submitted that the Evidence Act does not permit the marking of secondary evidence and hence this application deserves to be dismissed.

4. Heard both sides.

5. It is seen that in this case, the documents, stated in the schedule to Judges Summons have been lost. Despite best endeavours to produce them before this court, they are not traceable. Therefore, this Court is of the view that if the true photocopies of the said documents are not taken on record and receive in evidence, the same would cause irreparable loss and hardship to the applicant/plaintiff.



A.A.NAKKIRAN, J.

gv

6. Considering the facts and circumstances of the case and, in the interest of justice, in order to give an opportunity to the applicant to contest its case on merits, this Court is inclined to allow this application by treating the photocopies of the said documents as secondary evidences.

7. Accordingly, this application is allowed.

8. Registry is directed to list the matter before the learned Additional Master for recording evidence on 04.02.2025.

Gv

-01-2025

A NO. 5772 of 2024

To

1. M/s.Greens Power Equipments China Ltd
And 5 Others, China Ltd Also Known As M/s.Greens Power
Equipments India P Ltd.,Rep. By Mr.Bharkar Namasivayam,Off. At
No.3,Avenue Rd,1st

2. M/s.Atco Engineering
Rep By Its Partner Mr.R.Annamalai, Plot No.23, Karai Village, Ranipet 632 403.
Walajah Taluk, Vellore District.

3. R.Annmalai
Senior Manager (project) Indira Industries Pvt Ltd., S/o.Mr.Renu, No.139/2, Pillaiyar
Koil Street, Melkalavai, Gingee 604 202. Villupuram Dist.

4. E.Hari Babu
S/o. Easwaran, No.4/675, Kamaraj Nagar, Sipcot, Ranipet, Vellore Dist.,

5. B.Anbarasan
S/o.Balaraman, No.63/1, Iob Nagar, Navlock, Ranipet, Vellore Dist., Pincode-632 403.

6. S.Kalimuthu
Draughtsman, M/s.Indira Industries Pvt Ltd., S/o.G.Sampangi, No.3/932, Manthoppu
Street, Puliyangannu, Ranipet, Vellore Dist., Pincode - 632 403.

**Pre-delivery Order made in
A.No.5772 of 2024
in C.S.No.957 of 2010**