



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:12.11.2025

CORAM

**THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

C.M.A.No.2915 of 2025

and

C.M.P.No.24732 of 2025

M/s Soundararajan Cashews,
Rep.by its Proprietrix, S.R.Kavitha,
No.529, V.Puthur, Vegakollai,
Panruti Taluk, Cuddalore District.

..Appellant/Respondent/Defendant

/versus/

M/s Agri Venue,
Rep.by its Partner Harihara Varma,
New Colony First Floor,
No.2/39, 1st Street, Kottivakkam,
Chennai 600 041.

..Respondent/Petitioner/Plaintiff

Civil Miscellaneous Appeal has been filed under Order XLIII, Rule 1 of C.P.C., against the order dated 18.09.2025 passed in I.A.No.926 of 2025 in C.O.S.No.2 of 2025 on the file of the Principal District Judge, Cuddalore.



For Appellant :Mr.P.V.Balasubramanian, Senior Counsel for
Mr.S.Arunkungumaraj

For Respondents :Mr.T.S.Baskaran for Caveator

JUDGMENT

(Judgment of the Court was delivered by Dr.G.JAYACHANDRAN,J.)

A Commercial Suit laid before the Principal District Judge, Cuddalore, is for recovery of Rs.46,28,854/- which includes outstanding amount of Rs.30,94,052/- for the goods supplied and towards the interest along with the principal, the plaintiff has filed an application for adjudication before the judgment in respect of two items of property morefully described in the application. After considering the counter filed by the respondent/defendant and also the undertaking given by the Proprietor of the defendant concerned as well as her husband, the Court below had thought fit to attach the petition mentioned property before the judgment in order to protect the interest of the plaintiff, who incase succeed to recover the decree amount without any assail.

2. The defendant/respondent being aggrieved by the adjudication of



the properties, which according to him, is subject matter of a joint venture agreement with the third party and the adjudication will paralyse the joint venture agreement causing collateral damage himself as well as the builder with whom he has constructed. Further, with the submission, the respondent/defendant is ready to offer an alternate direction which is unencumbered and value more the said claim.

3. On notice, the respondent/plaintiff appeared through his counsel submitted that the property offered as substitute is not adequate and worth to be taken as a security and the property is also not an unencumbered property. It is also submitted that the property offered an alternate does not belong to the defendant but it is owned by her husband and Proprietor of the defendant firm. Since there was a refusal to accept the alternate security, the petitioner/defendant has come forward to furnish the bank guarantee for the principal amount of Rs.30,94,052/-, which is the admitted liability.

4. The learned counsel for the plaintiff/respondent submitted that as early as March 2024, the petitioner/defendant admitting his liability issued a cheque for Rs.30,94,052/-. However, the cheque was dishonoured. Now, he



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after one year, to release the property which is attached, has come forward to furnish the bank guarantee only to the extent of principal amount and not the entire suit claim. Therefore, the order of the trial Court need now modification, alteration and substitution.

5. The learned counsel for the respondent per contra submitted that the cashews supplied by the plaintiff was sent to the foreign buyers but the same was rejected as being the substandard product. As a consequence, the defendant has incurred loss as well as there is a disputable claim and before adjudicating the dispute, order passed in the attachment before judgment application itself requires reconsideration.

6. This Court on considering the rival submissions and the records, finds that there is a clear on the part of the petitioner/defendant about the liability for Rs. 30,94,052/- towards the goods sold. The contention that the goods sold were of substandard quality and the buyers were rejected it. All are the matter of fact which has to be tested in the course of the trial. Further, the entitlement of interest if any and the rate also the fact which is to be decided at the end of the trial.



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7. In such circumstances, this Court is of the view that it is suffice to protect the interest of the plaintiff sofar as the liability (i.e.) Rs.30,94,052/- and incase if the plaintiff/defendant is ready to furnish the bank guarantee till the disposal of the suit, the interest of both the parties will be well protected. Hence, the learned counsel appearing for the appelland offers to furnish the bank guarantee for Rs.30,94,052/- which is in our view it is suffice to safeguard the interest of the plaintiff/respondent in terms of the Order XXXVIII Rule 5 of C.P.C.

8. Therefore, we modify the order of the Principal District Court, Cuddalore passed in I.A.No.926 of 2025, dated 18.09.2025 to the effect that the appelland/defendant shall furnish the bank guarantee for Rs.30,94,052/- within a period of 30 days. On such furnish of bank guarantee, the modification order come into effect. Till date, the order of the Principal District Court, Cuddalore will be in force. Once the bank guarantee is furnished, necessary order will be passed by the Principal District Court, Cuddalore for deleting the encumbrance entered into the Registrar Office, if bank guarantee to be in force, till the disposal of the suit. This Court has no



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doubt, the disputed fact which is projected before this Court, will be decided by the Court below without being influence of the observation made by this Court.

9. Accordingly, this Civil Miscellaneous Appeal is disposed of. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

(Dr.G.J.J.) & (M.S.K.J.)
12.11.2025

Index:yes
Internet:yes
Speaking order/non speaking order
Neutral citation:yes/no
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To
The Principal District Judge, Cuddalore.



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Dr.G.JAYACHANDRAN, J.
and
MUMMINENI SUDHEER KUMAR, J.

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