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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 14.10.2026

Orders pronounced on : 05.11.2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

A No. 4124 of 2025
AND
CS NO. 158 OF 2021

Cosco Shipping Lines India Private Limited,
60 Old No 144/145, Malavika Centre, 4th Floor,
Kodambakkam High Road, Nungambakkam
Chennai 600034.

..Applicant(s)

Vs

1. Mariana Express Logistics
   Having its Office at No.4, Second Floor, 1st Main Road, Seethammal Extn, Teynampet, Chennai 600 018., Rep.by Mr.P.G.Sachin Nanjappa, hear of Operations.

2. China Cosco Shipping Corporation Limited,
   5299 Binjiang Dadao, Pudong New District
   Shaghai -200127,China.

..Respondent(s)

To pass a summary judgment against the Plaintiff and dismiss the suit as against the 2nd Defendant.

For Applicant(s): Mr.Bimal Rajasekhar
for Mrs.Ashwini Vaidialingam

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For Respondent(s): Mr.T.Ravichandran for R1

ORDER

The 2nd defendant in the suit has taken out this application, praying for a summary judgment, invoking Order XIII-A of the Code of Civil Procedure.

2. I have heard Mr.Bimal Rajasekhar, for Mrs.Ashwini Vaidialingam, learned counsel for the applicant/ 2nd defendant and Mr.T.Ravichandran, learned counsel for the 1st respondent/ plaintiff.

3. The 2nd respondent is none else than the 1st defendant in the suit and is arrayed as a formal party to the present application, seeking a summary judgment, primordially on the ground that there is no real prospect of the plaintiff succeeding in the suit against the 2nd defendant.

4.Background facts necessary for adjudicating this application are summarised herein:

The plaintiff has filed the suit for recovery of a sum of Rs. 1,34,78,813/-, together with interest, against both defendants 1 and 2, jointly and severally, besides also claiming compensation to a tune of Rs. 25,00,000/- on the ground of harassment. The plaintiff provides logistics by engaging in imports of cargo belonging to customers, using third party service providers. The plaintiff has

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imported cargo through the 1st defendant, China Cosco Shipping Corporation Ltd., Shanghai, a Chinese State-owned shipping and logistics service company. The plaintiff claims that the 2nd defendant is the agent of the 1st defendant. The cause of action for the suit is on the ground that the plaintiff has suffered detention charges in respect of 145 containers imported by the plaintiff on the vessels "VERMONT TRADER" and "WANHAI 515". The detention charges were incurred on the ground that the containers were not returned by the importer within the agreed period. The plaintiff alleges that there has been a delay in clearing and returning the containers and that the 2nd defendant had raised invoices on behalf of its principal towards such detention charges, which the plaintiff has been forced to pay. The plaintiff has instituted the suit on the basis that the delay was not attributable to the plaintiff and hence the detention charges paid by the plaintiff has to be refunded in full.

5.Arguments of the learned counsel for the applicant, Mr.Bimal Rajasekhar are summarised as hereunder:

5. The plaintiff has no real prospect of succeeding against the 2nd defendant. The 2nd defendant was admittedly an agent of the disclosed principal, New Golden Sea Shipping Pte. Ltd and therefore, the claim for refund can only be made against the disclosed principal and not against the agent of the said principal. The seaway bills/ bills of lading establish that the plaintiff's goods were only carried by the disclosed principal, New Golden Sea Shipping Pte.

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Ltd. Taking me through the plaintiff's admission and denial affidavit, dated 12.07.2025, it is contended that the plaintiff has admitted not only the existence of the bills of lading, but also the contents of the same, including the terms and conditions, mentioned in the said bills. Therefore, the detention charges were payable only to the carrier, New Golden Sea Shipping Pte. Ltd. Merely because the 2nd defendant collected the detention charges as an agent of the said carrier, it cannot give rise to a cause of action for the plaintiff to proceed against the 2nd defendant, who was acting only as an agent of the said carrier. Referring to Section 230 of the Indian Contract Act, 1872, it is contended that law is fairly well settled that an agent of a disclosed principal cannot be personally bound for the acts and omissions of the said disclosed principal.

6. It is also the contention of the learned counsel for the applicant that the disclosed principal has not even been impleaded as a defendant in the suit in the first place, despite the fact that the plaintiff admits to the bills of lading, clearly disclosing the name of the principal of the 2nd defendant to be New Golden Sea Shipping Private Limited. Ltd. That apart, taking me through the plaint, Mr.Bimal Rajasekhar, would further contend that the plaintiff claims arbitrarily, that the 2nd defendant's principal is the 1st defendant, which is not borne out of any material, pleading or any documents to support such a claim. He would also incidentally contend that the terms and conditions of the bill of lading, which carried the plaintiff's goods, specifically conferred jurisdiction on the Singapore

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High Court and therefore, it is his additional submission that if at all any claim is made for refund of detention charges, then such action should have to be brought before the Singapore High Court and not before this Court, especially when the parties have conferred jurisdiction on the Singapore High Court, by consent. In support of his submissions, the learned counsel for the applicant/ 2nd defendant has relied on the following decisions:

i. *M/s. Godaddy.com LLC and another vs. M/s. Puravankara Projects Limited,* in *Application No. 4983 of 2021 in Civil Suit No. 669 of 2015, dated 07.06.2022.*

ii. *Interglobe Aviation Limited vs. N.Satchidanand,* reported in *(2011) 7 SCC 463*

iii. *BRS Ventures Investments Ltd. vs. SREI Infrastructure Finance Ltd. and Another,* reported in *2024 SCC OnLine SC 1767*

iv. *Hapag-Lloyd (India) Private Ltd. vs. Rushabh Sealind and Logistic Private Ltd,* reported in *2026 SCC OnLine Bom 13221*

v. *M/s. Thakur Shipping Company, Bombay and another, vs. The Food Corporation of India, through the District Manager Tuticorin,* reported in *1981 SCC OnLine Mad 148*

7. Per contra, Mr. T.Ravichandran, counsel for the 1st respondent/ plaintiff, would rebut the submissions of Mr.Bimal Rajasekhar, on the following grounds:

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i. The applicant had already filed an application for revocation of leave in Application No. 3118 of 2021.

ii. The seaway bills admittedly do not disclose that the 2nd defendant acted as an agent of New Golden Sea Shipping Pte. Ltd.

iii. The website of the 1st defendant reveals the fact that the 2nd defendant is an agent of the 1st defendant and further New Golden Sea Shipping Pte. Ltd being a 100% subsidiary of the 1st defendant, there was no necessity to implead the said carrier, New Golden Sea Shipping Pte. Ltd, as a defendant in the suit.

iv. The 2nd defendant was clearly acting as an agent of the 1st defendant alone and when the 1st defendant admits to have collected the amount/ detention charges from the plaintiff, when it comes to the issue of refund of the said amount, the 2nd defendant admittedly has to face trial and cannot wriggle out by contending that he is an agent of another disclosed principal.

v. The 2nd defendant already made an attempt to have the leave granted under Clause 12 of the Letters Patent, revoked. However, by order dated 20.06.2023, the said application was dismissed, holding that the invoices raised contained an exclusive jurisdiction clause, conferring Mumbai Courts with jurisdiction over the dispute between the plaintiff and the 2nd defendant, cannot be presumed to the effect that the plaintiff had agreed to an exclusive jurisdiction clause. The said order has become final and therefore, it is too late in the day for the 2nd defendant to contend putting

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forth the new case as if it is only the Singapore High Court is the agreed forum for claiming refund of detention charges and not this Court.

vi. The 2nd defendant has not even pleaded that the detention charges were collected on behalf of the principal and therefore, the learned counsel would conclude his submissions stating that the 2nd defendant cannot escape from liability in such a summary fashion, by seeking for a summary judgment especially when the 1st defendant has chosen to remain ex parte.

8. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the records filed by way of typed set of papers. I have also perused the various authorities that have been relied on by Mr.Bimal Rajasekhar, learned counsel for the applicant.

9. At the outset, though it is an admitted fact that the applicant/ 2nd defendant attempted to revoke the leave granted by this Court to institute the suit against the 2nd defendant, before this Court and failed in such attempt, it is not a ground or an embargo for the 2nd defendant to invoke Order XIII-A of CPC and seek for a summary judgment. The basis of the present application is on the ground that the plaintiff, even if the parties go to trial, does not have any real chance of succeeding against the 2nd defendant. Therefore, the tests that

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have to be applied in this application are entirely different from what has to be looked into an application for revocation of leave. At the same time, as the application for revocation of leave has already been dismissed, today, having allowed the said order to become final, equally it is not open to the applicant/2nd defendant to raise a plea of jurisdiction or rather lack of territorial jurisdiction, relying on the terms and conditions of the bills of lading, conferring jurisdiction, by consent, on the Singapore High Court. In the light of the above discussion, I am unable to accept the arguments advanced of Mr.Bimal Rajasekhar, learned counsel for the applicant, that the lack of territorial jurisdiction can also be taken into consideration while considering the present application for passing a summary judgment under Order XIII-A of CPC.

10. As regards the liability of an agent of a disclosed principal, the statute itself, in no uncertain terms, clearly exempts an agent of a disclosed principal from being saddled with any liability. Section 230 of the Contract Act, is very clear on this aspect. However, it is the case of the 1st respondent/ plaintiff that the applicant/ 2nd defendant, is only an agent of the 1st defendant, who is in any event arrayed as party to the suit and in such circumstances, is not entitled to a summary judgment on this score that the disclosed principal of the 2nd defendant is not proceeded against.

11. It is however the case of the applicant/ 2nd defendant that the 2nd

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defendant is not the agent of the 1st defendant, but an agent of the New Golden Sea Shipping Private limited. In support of such a claim, I am able to see from the documents, especially the non-negotiable seaway bill dated 05.04.2020, that the said bill has been raised only by the New Golden Sea Shipping Pte. Ltd., in the name of the plaintiff company alone. There is no explanation or answer to this significant document, which in fact is admitted and not denied by the 1st respondent / plaintiff in the affidavit of admission and denial. The plaintiff on the contrary, relies on the invoice dated 29.05.2020 which has been issued by COSCO SHIPPING LINES (INDIA) PRIVATE LIMITED, in and whereby the applicant/ 2nd defendant has raised a tax invoice with the name of the consignee being the plaintiff, claiming to be an agent. It is therefore, the contention of the 1st respondent/ plaintiff that even these documents are self-serving and do not categorically disclose whether the applicant/ 2nd defendant was acting as an agent of the carrier New Golden Sea Shipping Pte. Ltd. Though the plaintiff has raised such contentions, from a reading of the plaint or even from the counter filed to the present application for a summary judgment, I am unable to see how the plaintiff claims and establishes that New Golden Sea Shipping Pte. Ltd. is 100% subsidiary of the 1st defendant. In any event, in law, there is no bar for incorporation of subsidiary companies, which would have separate legal existence in the eye of law.

12. As rightly contended by Mr.Bimal Rajasekhar, counsel for the

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applicant/ 2nd defendant, it is not even disclosed in the plaint that the carrier of the imported goods was New Golden Sea Shipping Pvt. Ltd. and not the 1st defendant. As regards the reliance on the website "world.lines.coscoshipping.com", admittedly, it is not the website of the 1st defendant, but a company by name COSCO Shipping Lines Co Ltd. It is also possible that the 2nd defendant acts as an agent for multiple companies and may have acted as an agent for the said COSCO Shipping Lines as well, apart from acting as an agent of New Golden Sea Shipping Pte. Ltd. In such view of the matter, I do not see the case of the 1st respondent/ plaintiff being carried any further, on the ground that the 2nd defendant was acting as an agent of the 1st defendant.

13. More significantly, what clinches the issue is the fact, in the suit, the defendant has filed 9 bills which contain specific terms and conditions. The said bills are specifically admitted by the plaintiff, in the affidavit of admission and denial dated 12.07.2025. As rightly pointed out by the learned counsel for applicant, Mr.Bimal Rajasekhar, the very same bills also find mention in the container arrival report as well. These are documents that have been filed by the plaintiffs themselves. These documents, beyond reasonable doubt, establish the fact that the import of goods was only through New Golden Sea Shipping Private Limited. It is too late in the day to contend that the 2nd defendant is an agent only for the 1st defendant and not of the carrier, New Golden Sea Shipping

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Private Limited. Mere fact that the 2nd defendant collected the detention charges on behalf of the carrier cannot saddle any liability on the applicant/ 2nd defendant, especially when the disclosed principal, which is borne out of the plaintiff's documents themselves, is New Golden Sea Shipping Pte. Ltd. Section 230 of the Contract Act, applies in all force to the facts of the present case and without even arraying the disclosed principal, the plaintiff is not entitled to proceed against the 2nd defendant, who admittedly was acting only as an agent of the carrier. In view of the above, I am satisfied that the plaintiff, on the strength of its own pleadings and admissions and denials, by affidavit dated 12.07.2025, has no real prospect of succeeding against the 2nd defendant. The 2nd defendant need not be driven or forced to undergo the agony of trial, in such circumstances. Thus, the applicant /2nd defendant has made out a case for summary judgment as prayed for.

14. Coming the to the decisions relied on by Mr.Bimal Rajasekhar, learned counsel appearing for the applicant/ 2nd defendant, in *M/s.Godaddy.com LLC's* case (referred herein supra), this Court reiterated the principles pertaining to grant of summary judgment and held that the object of "real" is used to indicate that such prospect is not illusory, theoretical or statistical or imaginary or fanciful and further held that even when the application satisfies the requirement of Rule 3(a) of Order XIII-A of CPC, it would become necessary for the court to consider whether there is any other compelling reason to direct

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the parties to record oral evidence, as requirements in clauses (a) and (b) in Rule 3 has to be considered as being cumulative, in view of the use of conjunction "and" between clauses (a) and (b). I have already found that the applicant has satisfied the requirement of clause (a) of Rule 3 of Order XIII-A of CPC. Further, I also do not find any compelling reason to direct the applicant/ 2nd defendant to undergo trial in the given facts and circumstances.

15. In *Interglobe Aviation Limited's* case (referred herein supra), the Hon'ble Supreme Court held that a bill of lading and terms and conditions contained therein would be binding on the parties and therefore, the term relating to exclusive jurisdiction cannot be ignored merely on the ground that passengers would not have read it. I have already found that the applicant is not entitled to canvass a plea of territorial jurisdiction and the yardstick for deciding an application for summary judgment is completely different from an application for revoking leave on the ground of lack of territorial jurisdiction. Hence, I do not see how this decision would come to the aid of the applicant/ 2nd defendant.

16. In *BRS Ventures Investments Ltd's* case (referred herein supra), the Hon'ble Supreme Court, relying on an earlier decision of the Hon'ble Supreme Court in *Bacha F. Guzdar vs. Commissioner of Income Tax, Bombay,* reported in *(1955) 1 SCR 876*, held that a company is a juristic person and distinct from its shareholders. I do not have any quarrel with regard to the settled legal

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position. In *Hapag-Lloyd (India) Private Limited's* case (referred herein supra), the Bombay High Court, discussing Section 230 of the Indian Contract Act, 1872, reiterated the settled legal position that unless there is a contract to the contrary, the local agent of a foreign carrier cannot be personally made liable for any breach of contract to the carriage. This decision, applying the ratio and settled legal principle relating to Section 230 of the Indian Contract Act, 1872, is squarely applicable to the facts of the present case. It is not the case of the 1st respondent/ plaintiff that the 2nd defendant would fall within the exceptions and that there is a contract to the contrary. Therefore, as an agent of a disclosed principal, namely New Golden Sea Shipping Pte. Ltd, the applicant/ 2nd defendant cannot be proceeded against.

17. In *M/s. Thakur Shipping Company, Bombay and another's* case (referred herein supra), the Division Bench of this Court discussed the nature of legal liability in matters of delivery of cargo under bills of lading issued by the Master of the ship and held that the principal alone and not the agent will be independently liable to be proceeded against. The ratio laid down by the Division Bench also applies to the facts of the present case. In light of the foregoing discussion, as already found, at the risk of repetition, the 1st respondent/ plaintiff does not have any real prospect of succeeding against the applicant/ 2nd defendant, even in the event of the parties being relegated to a full-fledged trial. Further, the suit is admittedly not filed invoking the special

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procedure for summary judgment as laid down in Order XXXVII of the Code as well. Hence, the applicant is entitled to succeed as it has satisfied the twin conditions namely, establishing the factum of plaintiff having no real prospect of succeeding in the claim and secondly, there is no other compelling reason as to why the claim should not be disposed of before recording of evidence in the matter.

18.In light of the above, this Application is allowed and a summary judgment is passed, dismissing the suit as against the 2nd defendant. However, there shall be no order as to costs.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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P.B.BALAJI J.

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