

IN THE PRINCIPAL COMMERCIAL COURT AT EGMORE, CHENNAI.

**Present : Tmt. Deepthi Arivunithi, M.L.,
Principal Judge**

Monday, the 1st day of April, 2025

C.O.S. SR. No. 873/2024

Simplified Procurement Services Private Limited,
(CIN: U51909TN2017PTC119961)
37/22, 6th Floor, Chamiers Towers,
Chamiers Road, Teynampet,
Chennai – 600 018,
Represented by its Chief Financial Officer,
G Raajesh Baabu.

...Plaintiff

-Vs-

1. Waycool Foods And Products Private Limited,
(CIN:U52399TN2015PTC101215)
No. 927, Regus Olympia Platina, 9th Floor,
Plot No. 33-B, South Phase,
Guindy Industrial Estate, Guindy,
Chennai – 600 032.

2. Karthik Jayaraman,
Managing Director,
Waycool Foods And Products Private Limited,
No. 927, Regus Olympia Platina, 9th Floor,
Plot No. 33-B, South Phase,
Guindy Industrial Estate, Guindy,
Chennai – 600 032.

...Defendants

This suit came before me for final hearing on 28.03.2025 in the presence of M/s. Rejesh Ramanathan, S.Sriraman, Diwakar, Saai Sudharshan Sathiyamoorthy, Karthikeyan. S, Antara Balaji, R.Kumaresan, Factum Law, the learned counsel for the plaintiff.

ORDER

Plaint filed under Order VII Rule 1 C.P.C. read with Section 6 read with Section 2(1)(c)(xviii) and Section 2(1)(c)(i) of Commercial Courts Act, 2015 for

recovery of a sum of Rs.7,03,532/- along with interest; for damages of Rs.5,00,000/- and for costs.

2. Since the present suit has been filed without compliance of Section 12A of the Commercial Courts Act, 2015, the counsel for the plaintiff was heard on maintainability. The learned counsel for the plaintiff would state that the present suit is filed with an application for attachment before judgment and therefore urgent interim relief is contemplated. Reliance is also placed on the decision of the Hon'ble Supreme Court in 2023 SCC Online SC 1382 and it is contended that only when there is deception or falsity apparent it should be considered as camouflage or guise to bypass the statutory mandate. It is contended that the reasons given by the plaintiff is genuine and therefore, the suit be taken on file.

3. The suit is filed by the plaintiff claiming various amounts due under the invoices raised by the plaintiff and for damages. Upon perusal of the records, it is seen that the last invoice was raised on 31.02.2022 and the last part payment is said to have been received on 03.06.2023. It is seen that there were correspondence between the parties till 31.01.2024. The legal notice was sent by the plaintiff on 28.05.2024 and it is stated that there was no reply. Though the learned counsel for the plaintiff has stated that the defendant is trying to evade the process of the court by removing his property away from the jurisdiction of this court, it is seen that the application filed under Order XXXVIII Rule 5 C.P.C. does not contain description of either movable or immovable property. There is no reason given in the plaint disclosing any urgent interim relief that is sought for. Hence, it is seen that there is no basis for making a claim as stated in the application. It is also pertinent to take note of the fact that the legal notice was sent as early as in May 2024. While so, the present suit is filed only on 04.12.2024. In short, it is apparent that the application is filed only as a guise to bypass the statutory mandate. Therefore, even applying the decision relied upon by the learned counsel for the plaintiff, this court finds that the plaintiff cannot by-pass the statutory mandate merely because they are of the opinion that the same is

futile. Suffice it to note that there is nothing on record to show that any urgent interim relief is contemplated.

In view of the above, the plaint is returned in exercise of powers under Order VII Rule 10 C.P.C. to comply with the statutory mandate under Section 12A of the Commercial Courts Act, 2015.

Partly typed by me and partly dictated to Steno-typist, transcribed and typed by her, corrected and pronounced by me in the open Court this the 1st day of April, 2025.

**Principal Judge,
Principal Commercial Court,
Egmore, Chennai – 08.**

**Plaintiff side Documents : Nil
Defendant side Documents : Nil**

**Principal Judge,
Principal Commercial Court,
Egmore, Chennai – 08.**

Draft/Fair Order

C.O.S. SR. No. 873/2024

Dated: 01.04.2025

**Principal Commercial Court,
Egmore, Chennai – 8.**