

Form No.9 (Civil)
Title Sheet for
Judgment in Suits
(R.P.91)

**IN THE COURT OF THE LXXXVI ADDL. CITY CIVIL JUDGE
AT BANGALORE [CCH.No.87]**

Present:

Sri.SUNIL ANDANEPPA SHETTAR, B.Sc., LLB., (SPL)
LXXXVI ADDL. CITY CIVIL JUDGE

Dated this the 29th day of March, 2022

Com.O.S.No.4247/2019

Plaintiff/s : M/s. Shri Mahaveer Security Solutions,
A proprietorship concern having its office at
No.27, Kommagotta Road,
Kuvempu Layout, K.S. Town,
Bangalore-560 060.
Represented by its proprietor
Mr.Hridaynarain Pandey'
PAN: ADRPH9247A
(By M.R.S. Advocate)

- Vs -

Defendant/s : 1. M/s L & T Ltd.,
WET division & Life Irrigation Division
A company registered under the
Companies Act, 1956, having its
Headquarters at
PB No.979, Mount Poonamallee Road,
Manapakkam, Chennai-600 089.
Represented by vice-president of WET
Division and Life Irrigation Division.

2. Mr.B.Srinivasan,
Cluster Accountant-Bangalore Cluster
WET IC
M/s L & T Ltd,
Construction,
No.19, Kumara Krupa Road,
Bangalore-560 001.
(By G.R.A, Advocate)

Date of institution of the suit : 15.06.2019
 Nature of the suit [suit on pronote, suit for declaration and possession, suit for injunction] : Recovery of Money
 Date of the commencement of recording of the evidence : 28.07.2021
 Date on which the Judgment was pronounced : 29.03.2022

	Year/s	Month/s	Day/s
Total Duration	02	09	14

(SUNIL.A.SHETTAR)
 LXXXVI Addl. City Civil Judge
 Bangalore.

J U D G M E N T

This is the suit filed by the plaintiff a proprietorship concern represented by its proprietor against the defendants for judgment and decree directing the defendants to jointly and severally pay a sum of Rs.18,33,457/- along with current and future interest at the rate of 18% p.a till realization and costs.

2. The brief facts of the plaintiffs' case are as under:

That the plaintiff is a proprietorship concern carrying on its business of providing security services by deploying security guards at various work sites. The defendant No.1 is a company incorporated under the companies act 1956 having its head office at Chennai, represented by its vice president. The defendant No.2 is the cluster accountant at Bangalore cluster of defendant No.1.

3. The defendant No.1 company has availed the security services of the plaintiff. The plaintiff is providing security services to the defendant No.1 by deploying security guards at the work sites of defendant No.1 continuously for the last twelve years. The plaintiff has provided the security services to the defendant No.1 on the basis of the work orders issued by the defendant No.1 at the work places of Jackwal (Davanagere), Harohalli, LOI for 2nd stage UGD at Tumkur, LE 170324-Nanawadagi LIS Raichur and BWSSP-UEW-D2a project site.

4. The plaintiff after providing the security services has raised the tax invoices/bills on the defendant No.1 for making payment which are as under:

Sl. No.	Place of work	Work order No.	Invoice	Date	Amount Rs.
i)	Jackwal, Davanagere	Jackwal, Davanagere	026	01.09.2018	1,66,587.00
ii)	Jackwal, Davanagere	Jackwal, Davanagere	028	01.09.2018	2,49,880.00
iii)	Harohalli	Harohalli	020	01.10.2017	1,85,828.00
iv)	Harohalli	Harohalli	026	01.11.2017	61,942.00
v)	Harohalli	Harohalli	035	01.12.2017	61,943.00
vi)	Harohalli	Harohalli	037	01.01.2018	61,943.00
vii)	Harohalli	Harohalli	048	01.02.2018	61,943.00
viii)	Harohalli	Harohalli	055	01.03.2018	61,943.00
ix)	Harohalli	Harohalli	065	31.03.2018	61,943.00
x)	UGD Works Tumkur	EA558WOD 5000051	049	01.01.2019	4,07,681.00
xi)	Nandawadagi	EG314WOD 8000020	034	01.11.2018	1,70,831.00
xii)	Nandawadagi	EG3114WOD 8000020	037	01.12.2018	93,606.00
xiii)	Nandawadagi	EG314WOD 8000020	043	15.12.2018	35,102.00
xiv)	BWSSB-UFW D2b project	E8785WOD 400063	033	01.11.2018	1,52,285.00
Total Dues					18,33,457.00

5. The defendants are liable to pay the outstanding dues of Rs.18,33,457/- as on the date of the suit. It is the allegation of the plaintiff that the defendants have not paid the aforesaid dues inspite of repeated demands and reminders sent through emails and phone calls. The defendant No.2 is the cluster accountant of defendant

No.1 at Bangalore cluster who was responsible for approving the bills submitted by the plaintiff and he has not approved the bills for the reasons best known to him and hence, he has been arrayed as a party to the suit. It is alleged that the defendants went on postponing the payment of the outstanding dues inspite of repeated requests on one or the other pretext and hence, the plaintiff got issued the legal notice dated 19.12.2018 to the defendant No.1 calling upon to pay the outstanding dues within thirty days from the date of receipt of notice, but the defendants have given an untenable reply dated 19.01.2019. The plaintiff has also sent a counter reply to the reply of the defendants.

6. It is also the case of the plaintiff that the defendants are liable to pay a sum of Rs.18,33,457/- with interest at the rate of 18% p.a since the defendants have withheld the legitimate dues of the plaintiff. Hence, on these grounds the plaintiff has prayed to decree the suit.

7. The cause of action for the suit is mentioned as it arose on the dates when the work orders were issued and also on subsequent dates.

8. In response to the suit summons the defendants No.1 and 2 have appeared through their counsel and it is the defendant No.1 who has resisted the suit by filing its written statement.

9. The defendant No.1 in its written statement has denied the entire averments of the plaint toto. It is contended that the defendant No.2 is no more working in the office of defendant No.1 at Bangalore and he has been transferred to other unit of the company and is not incharge of the said position as averred in the plaint and the person who is incharge of his position has executed the vakalthnama.

10. It is the case of the defendant No.1 that it has been carrying on the project of underground drainage providing and laying sewage system and "24X7 water supply to Tumkur city project" pursuant to the contract with the karnataka Urban Water Supply and Drainage

Board (KUWS and DB). Based on the covenants and assurances made by the proprietor of the plaintiff, the defendant No.1 had enrolled him as a sub-contractor for providing security services at various project sites and had issued work orders from time to time and the plaintiff has accepted the same by agreeing to the terms and conditions. The contention of the plaintiff that it has provided successful security service is denied by the defendant No.1. The claim of the plaintiff as well as the interest at 18% p.a is also denied and disputed. The allegations made against the defendant No.2 is also denied and disputed. The cause of action for the suit and the rest of the averments of the plaint are denied.

11. It is the contention of the defendant No.1 that the plaintiff has not furnished the alleged invoices/bills with supporting documents despite several requests for verification and processing the same for payment that would be payable. The plaintiff without furnishing the original invoices and supporting documents has issued a legal notice seeking payment.

12. It is also the case of the defendant No.1 that during the tenure of the contract with the plaintiff, the manufacturers had supplied water meters of different sizes to the defendant No.1 at its site, which was under the exclusive guard and security of the plaintiff. It is the allegation of the defendant No.1 that there was a theft of water meters numbering 10,415 worth Rs.1,52,46,586/- at Tumkur site of defendant from the period 31.10.2018 and 08.11.2018 due to the negligence of the plaintiff and its personal, which came to the light from the inventory conducted by the defendant No.1. The materials were received at the site by the security personal deployed by the plaintiff by verifying the relevant invoices/transport waybills. The plaintiff is solely responsible for providing security of the said store and the materials stored in the stores.

13. The defendants have also lodged a complaint before the jurisdictional police, but the police evaded to receive the complaint due to the influence of plaintiff and thereafter, the complaint was lodged before the

superintendent of Tumkur who in turn directed the jurisdictional police to receive the complaint and investigate the matter. Thereafter, on repeated approaches and persuasion of the defendant No.1 an FIR came to be registered. In the meanwhile the plaintiff fearing the consequences of the investigation abandoned the services by sending an email on 13.12.2018 notifying withdrawal of its services from Tumkur UGD sites and thereby committed breach of the terms of contract of work order.

14. It is further alleged that a theft of the office camera at Nadawadagi LIS project site was committed in the month of December 2018 of which the security was entrusted to the plaintiff. It is also alleged that the office computer at the site has been misused by the security personal provided at the work site. The theft of the camera and misuse of computer were notified to the plaintiff through email on various dates. The defendant No.1 has sustained loss due to the lapses on the part of plaintiff and its personal.

15. It is also the case of the defendant No.1 that the project work undertaken by it is still ongoing and due to the commission of theft of water meters the defendant No.1 has sustained loss and damages and the defendant No.1 may be exposed to further loss and damages for not completing project in time from KUWS and DB. The defendant No.1 has made various allegations of negligence, theft of water meters, theft of camera, misuse of computers and violation of the terms and conditions of the work order.

16. It is further contended that inspite of the reply given by the defendant No.1, the plaintiff did not come forward to resolve the dispute and has rushed to the court with the suit by making untenable allegations and by suppressing the material facts. It is alleged that the security personal of the plaintiff who were under the obligations to secure and protect store and materials therein have caused pilferage resulting in loss to the defendant No.1 to the tune of Rs.1,52,46,586/-. The defendant No.1 has addressed a letter dated 17.07.2019

to the plaintiff to that effect and the plaintiff has evaded the said notice and failed to comply with the demand made in the notice. Hence, on these grounds the defendant No.1 has prayed to dismiss the suit.

17. The defendant No.1 along with the written statement has filed an application seeking leave of the court to file a separate counter claim. The defendant No.1 by way of counter claim has claimed recovery of a total sum of Rs.1,52,46,586/- from the plaintiff with interest @ 24% p.a. from 08.11.2018 or from the respective dates of supply of water meters to the site till 17.10.2019, which comes to Rs.36,59,181/-. The defendant No.1 has also sought future interest @24% p.a. on the counter claim along with costs. The defendant No.1 by reiterating the averments of its written statement has claimed the aforesaid reliefs.

18. The cause of action for the counter claim is mentioned as it arose on the date of execution of various work orders and on the dates when the materials were stored in the stores and also on subsequent dates.

19. The plaintiff has filed rejoinder to the counter claim of the defendant and denied the counter claim of the defendant in toto. The plaintiff contends that the defendant No.1 has not given the contract to the plaintiff to provide security for the project work of "24X7 water supply to Tumkur" in and around Tumkur. It is denied that the plaintiff has not submitted the invoices along with supporting documents for verification and processing the payment. The plaintiff claims that he has submitted all the invoices with supporting documents and the defendant No.1 has acknowledged the receipt of the same. It is denied that due to the negligence of the staff of the plaintiff, theft of water meters, camera and misuse of computers have occurred resulting in the loss of materials worth Rs.1,52,46,586/-. It is also denied that the plaintiff is liable to make good all the loss suffered by the defendant due to the lapses on the part of the security personal of the plaintiff. Rest of the averments of the counter claim as well as the cause of action for the counter claim are denied and disputed.

20. On the basis of the above pleadings of the respective parties and considering the materials available of record the following issues have been framed :

1. Whether the plaintiff proves that it has provided security services to the defendant No.1 as per the work orders as contended in para No.5 of the plaint?
2. Whether the plaintiff further proves that the defendant No.2 is the cluster accountant working in defendant No.1 company who has failed to approve the bills of the plaintiff?
3. Whether the plaintiff further proves that the defendants are liable to pay a sum of Rs.18,33,457/- (Eighteen Lakhs Thirty Three Thousand Four Hundred and Fifty Seven Only) towards the security services provided?
4. Whether the plaintiff is entitled for the interest at the rate of 18% p.a.?
5. Whether the defendant No.1 proves that, he has suffered loss to the tune of Rs.1,52,46,586/- (One Crore Fifty Two Lakhs Forty Six Thousand Five Hundred and Eighty Six Only) due to the negligence of the personal of the plaintiff and also due to breach of terms and conditions as contended in para No.9 and 15 of the counter claim/written statement?

6. Whether the defendant No.1 further proves that the plaintiff has failed to provide original invoices supporting the documents to him?
7. Whether the plaintiff is entitled to the reliefs sought for?
8. Whether the defendant No.1 is entitled to the counter claim?
9. What order or decree?

21. The proprietor of the plaintiff in order to prove his case has got examined himself as P.W.1 and got marked the documentary evidence, which are at Ex.P.1 to Ex.P.34. The cluster accountant and admin manager of the defendant in order to substantiate the claim has been examined as D.W.1 and got marked the documentary evidence, which are at Ex.D.1 to Ex.D.31.

22. Both the counsels have filed their respective written arguments on the main suit. Having heard the arguments of both the counsels and considering the pleadings of the respective parties as well as the oral and

documentary available on record, I answer the above issues as under:

Issue No.1 : In the Affirmative

Issue No.2 : Not answered

Issue No.3 : In the Affirmative

Issue No.4 : Partly in the Affirmative

Issue No.5 : In the Negative

Issue No.6 : In the Negative

Issue No.7 : In the Affirmative

Issue No.8 : In the Negative

Issue No.9 : As per final order
for the following;

REASONS

23. **Issues No.1, 3, 4 and 7 :-** Since all these issues are inter related to each other and requires common discussion, they will be taken up together for discussion.

On going through the pleadings of the respective parties, the fact that the defendant No.1 has availed the security services of the plaintiff at its work places is not disputed. The plaintiff claims that after providing the

security services to the defendant No.1, it had raised various invoices, but the defendants have failed to pay the outstanding dues of Rs.18,33,457/-.

24. On the other hand, it is the allegation of the defendant No.1 that the security personal of the plaintiff have committed theft of water meters, office camera and misused the official computers and caused loss to the tune of Rs.1,52,46,586/- and have claimed the said amount from the plaintiff by way of counter claim.

25. The dispute between the parties is in respect of security services provided by the plaintiff and there are counter allegations and counter claim by the defendant No.1 and hence the nature of the transaction is commercial in nature as defined U/s 2 (1) (c) of the Commercial Courts Act, 2015 and the specified value of the subject matter of the suit as defined U/s 2 (c) (I) of the said act is more than Rs.3,00,000/- (Three Lakhs Rupees Only) and hence this court has jurisdiction to entertain the suit.

26. The P.W.1 who happens to be the proprietor of the plaintiff has reiterated the averments of the plaint and got marked the documentary evidence, which are at Ex.P.1 to Ex.P.34. Ex.P.1 to Ex.P.14 are the copies of 14 invoices raised by the plaintiff against the defendant No.1. Ex.P.15 to Ex.P.17 are the copies of work orders issued by the defendant No.1 in favour of plaintiff. Ex.P.18 to Ex.P.24 are the copy of legal notice dated 19.12.2018 issued by the plaintiff to the defendant No.1, postal receipts and postal acknowledgment respectively. Ex.P.25 is the reply notice dated 19.01.2019 given by the defendant No.1 to the plaintiff. Ex.P.26 is the counter reply sent by the plaintiff dated 30.01.2019 to the defendant No.1. Ex.P.27 to 3 are the postal receipts, postal acknowledgment and returned postal cover. Ex.P.34 is the letter dated 07.02.2019 issued by the plaintiff to the defendant No.1.

27. The defendants in order to substantiate their claim have got examined its cluster accountant as DW1 and has reiterated the averments of the written

statement and got marked the documentary evidence, which are at Ex.D.9 to Ex.D.31. Ex.D.1 to Ex.D.8 are the documents of the defendants marked in the evidence of P.W.1. Ex.D.1 is the copy of the work order dated 03.02.2015 issued to the plaintiff along with the terms and conditions. Ex.D.2 and Ex.D.3 are the office copies off reply letters dated 19.01.2019. Ex.D.4(a) (b) (c) to Ex.D.18 (a) (b) (c) are Material receipts, Corresponding invoice and Copy of transport weigh bills. Ex.D.19 is the receipt dated 16.10.2019. Ex.D.20 is the pen drive in a sealed cover pertaining to the photographs which are Ex.P.4. Ex.D.21 is the copy of 'E' mails dated 26.11.2018 consisting of six pages. Ex.D.22 is the office copy of the letter dated 17.07.2019. Ex.D.23 & Ex.D.24 is the Postal receipts. Ex.D.25 is the copy of Email dated 22.07.2019. Ex.D.26 is the postal receipts. Ex.D.27 is the Notarial certification. Ex.D.28 is the original GPA dated 25.08.2021. Ex.D.29 is the copy of reply dated 19.01.2019. Ex.D.30 is the copy of another reply dated

19.01.2019. Ex.D.31 is the certificate U/s 65B of Indian Evidence Act.

28. The plaintiff has provided the security services to the defendant on the basis of the work orders issued by the defendant, which are at Ex.P.15 to Ex.P.17. Ex.P.16 and Ex.D.1 are one and the same. On going through the said work orders, they pertain to the place of work at Davanagere, Harohalli, UGD works at Tumkur and Nandavadi. The work orders do not pertain to the place of work i.e., 24X7 water supply to Tumkur city project. The work orders contain all the details of work, price and validity, price variation, taxes and duties, PF and ESI to be paid to the employees along with other terms and conditions. As per clause 7 of the work orders the payments towards running bills shall be made on monthly basis on work done, measurements certified by the engineers of the defendant. The income tax as per the government rules will be recovered from running bills and a certificate will be issued to that effect.

29. Based on the work orders the plaintiff has raised the invoices, which are at Ex.P.1 to Ex.P.15 and as already stated above the work orders pertains only to the place of work at Davanagere, Harohalli, UGD works Tumkur and Nandohalli. The said invoices are of the year 2017-2019 totally amounting to Rs.18,33,457/-. The documentary evidence as well as correspondence taken place between the plaintiff and the defendant goes to show that the plaintiff has provided the security services to the defendant for the past twelve years at various places. One of the objection raised by the defendant is that the plaintiff has not furnished the original invoices along with supporting documents inspite of several requests raised by them. At the same time the plaintiff claims that he has handed over the invoices along with the particulars to the defendant No.2. Infact the defendants have not denied the security services provided by the plaintiff as per the work orders, which are at Ex.P.15 to Ex.P.17 and it is also not the case of the defendants that they have made payment in respect of

the invoices, which are at Ex.P.1 to Ex.P.14. All the aforesaid invoices shows the period and particulars of the services provided by the plaintiff as well as the amount claimed by the plaintiff for having provided the services.

30. Prior to the institution of the suit the plaintiff has got issued the legal notice as per Ex.P.18 claiming the amount as per the invoices. which are at Ex.P.1 to Ex.P.14 and the defendants have replied to the said notice, which is at Ex.P.25. The defendants in the reply have admitted that they had engaged the services of the plaintiff for providing security services at various places, which does not contain the work place at 24X7 water supply to Tumkur city project. In the said reply the work orders issued by the defendants and invoices raised by the defendants is not disputed, but claims that the supporting documents such as paysheets, PF and ESI challans were not furnished and only the copies of bills were furnished.

31. Another objections raised by the defendants is that due to the negligence of the security personal of the plaintiff there was theft of water meters and camera of

the defendants kept in the work places as well as misuse of computers resulting the loss to the defendants and for that reason they are not making the payment as claimed by the plaintiff. Under the facts and circumstances of the case the court has to see whether the alleged theft is due to the negligence on the part of the security personal of the plaintiff or not. On going through the cross-examination of D.W.1, it can be ascertained that the work places of the defendants was huge and apart from the security personal of the plaintiff, there were other persons who were working in the work places. The defendant has furnished the photographs of the work place of defendant, which goes to show that it is a huge area and the boxes of materials were kept in a shed. The learned counsel for the defendant in his cross examination dated 17.08.2021 has suggested to PW1 that after receiving the goods and verified by the security guards, the authorities of L and P use to restore the said materials in the store rooms. This aspect goes to show that the authorities and La nd P were under the supervision and control of the materials kept in

the stores. It must also be borne in mind that the water meters and other materials, which were brought to the work places were kept in a separate sheds, which were under the control and supervision of the staff of the defendants. It can be gathered from the oral and documentary evidence available on record that the work of the plaintiff is to provide security to the work places and they use to guard the work places. It is the look out of the staff of the defendants to take care of the materials kept in the stores and there cannot be any blame upon the security personal of the plaintiff for the theft of materials why because all the materials were under the care and custody of the staff of the defendants. It can also be gathered that many of the staff members and workers of the defendants had access to the work place of the defendants.

32. The cross examination of D.W.1 at page No.19 goes to show that the land where the water meters were kept was obtained on lease basis measures about 4 acres and the water meters were stored in 6 sheds covered with

asbestos sheets and no extra security guards were provided to the sheds and no cameras were installed and the sheds were 100 meters away from the main entrance gate. D.W.1 has further admitted that number of work men were residing in the said four acres of land. According to D.W.1 the water meters were procured from January to July 2017 and thereafter they have not received any water meters. According to the defendant No.1 inventory was conducted on 08.11.2018 and found that water meters worth Rs.1,52,46,586/- were missing. At this juncture it is also necessary to go through the suggestion made by the learned counsel for the defendants to P.W.1 in the cross examination dated 04.09.2021, wherein it is suggested that the security personal of the plaintiff has joined hands with Shrinu Pillia and Pallanna, who happens to be the store keepers of defendant No.1 and the said suggestion has been denied by P.w.1. This suggestion goes to show that the staff of defendant No.1 are involved in the commission of theft.

33. It is to be noted that the fact of theft of materials was intimated to the plaintiff for the first time by way of reply to the notice got issued by the plaintiff. The reply notice is at Ex.P.25 and in this said reply it is stated that despite the theft at Tumkur site, the plaintiff has failed to take any remedial action to set right its defaults which has hampered the works of the defendants to a large extent. No particulars of theft has mentioned in the said reply notice. Though the defendant has lodged a complaint in respect of theft of water meters, no charge sheet has been filed. Absolutely no materials have been placed by the defendants in order to show that theft has occurred in the work places of the defendant due to the negligence of the security personal of the plaintiff. The defendant on the guise that theft has been committed in the work place, it cannot deny the legitimate claim of the plaintiff for having provided services to the defendant as per the work orders. The oral and documentary evidence placed by the plaintiff are sufficient to hold that the plaintiff has provided security services to the defendant

No.1 as per the work orders which are at Ex.P.15 to Ex.P.17.

34. The defendant No.1 having availed the services of the plaintiff as per the work orders are bound to pay the amount as per the invoices/bills raised by the plaintiff which are at Ex.P.1 to Ex.P.14. On going through the oral and documentary evidence available on record the plaintiff has proved that the defendants are bound and liable to pay a sum of Rs.18,33,457/- towards the services provided by the plaintiff.

35. The claim of the plaintiff is legitimate and hence the defendant No.1 is bound to pay interest. The plaintiff has claimed interest at the rate of 18% p.a, which appears to be exorbitant. Admittedly there is no agreement between the plaintiff and defendant in respect of payment of interest in case there is a delay in payment. Under the facts and circumstances of the case interest at the rate of 12% p.a on the claim amount of the plaintiff is proper and appropriate. Hence, the plaintiff is

entitled for interest at the rate of 12% p.a from the date of suit till realization.

36. The plaintiff has also instituted the suit against the defendant No.2 who happens to be the cluster accountant of defendant No.1. The work orders are placed by the defendant No.1 and accordingly the plaintiff has provided security services to the defendant No.1. There is no privity of contract between the plaintiff and defendant No.2. Merely because the defendant No.2 happens to be the cluster accountant of defendant No.1, it cannot be said that he is also liable to pay the amount claimed in the plaint. There is no cause of action to institute the suit against defendant No.1. Though the burden is cast upon the plaintiff to prove issue No.2, there is no necessity of answering the said issue. Hence, for the aforesaid reasons, I answer issues No.1, 3 and 7 in the 'Affirmative' and issue No.4 'Partly in the Affirmative'. Issue No.2 is not answer.

37. **Issues No.5, 6 and 8:-** The burden of proving these issues is upon the defendant No.1. as already

discussed above the defendant No.1 has claimed the counter claim of Rs.1,52,46,586/- towards the loss suffered due to the theft of the water meters, camera and misuse of computers. According to the defendant No.1 theft of water meters has been committed in the work place at Tumkur i.e., UGD works Tumkur and 24X7 water supply to Tumkur city projects. As already stated above the plaintiff was not entrusted with the security services works for 24X7 water supply to Tumkur city projects. Though the defendant No.1 has lodged the complaint, no charge sheet has been filed against the security personal of the defendant. As already discussed above though the plaintiff was entrusted with the security work as per the work orders, there were sheds and stores for storing the materials, which were under the control and supervision of the authorities of defendant No.1. Many of the staff of the defendant No.1 had access to the work place of the defendant No.1. Under such circumstances the theft cannot be attributed to the security personal of the plaintiff. On going through the oral and documentary

evidence available on record the defendant No.1 has utterly failed to establish that it had suffered loss to the tune of Rs.1,52,46,586/- due to the negligence on the part of the security personal of the plaintiff. There are no violation of the terms and conditions of the work orders by the plaintiff as alleged in the written statement and counter claim. There is no basis for claiming the counter claim against the plaintiff. Hence, I answer the issues No.5, 6 and 8 in the 'Negative'.

38. **Issue No.9:-** Since I have answered issue No.1, 3 and 7 in the 'Affirmative', issue No.4 'Partly in the Affirmative' and issues No.5, 6 and 8 in the 'Negative', I proceed to pass the following;

ORDER

The suit of the plaintiff is hereby decreed with costs against defendant No.1.

It is ordered and decreed that the defendant No.1 is liable to pay to the plaintiff a sum of Rs.18,33,457/- with

interest at the rate of 12% P.a from the date of suit till realization.

The suit of the plaintiff against the defendant No.2 is dismissed.

It is further ordered that the counter claim of defendant No.1 for Rs.1,52,46,586/- is hereby dismissed.

Draw the decree accordingly.

The office is hereby directed to send copy of this order to the parties to the proceedings to their respective email ID as required under order 20 rule 1 of CPC and as amended under section 16 of the Commercial Courts Act, 2015.

[Dictated to the stenographer, online transcribed & computerized by her, corrected on computer and signed by me then pronounced in the Open Court, dated this the 29th day of March, 2022]

(SUNIL.A.SHETTAR)
LXXXVI Addl. City Civil Judge
Bangalore.

ANNEXURE

List of witnesses examined on behalf of the plaintiff/s:

P.W.1 : Hridaynarain Pandey

List of documents marked on behalf of the plaintiff/s:

Ex.P.1 to

Ex.P.14: Copies of invoices

Ex.P.15 to

Ex.P.17: Copies of work orders

Ex.P.18: Copy of legal notice dated 19.12.2018

Ex.P.19 to

Ex.P.22: Postal receipts

Ex.P.23 &

Ex.P.24: Postal acknowledgments

Ex.P.25: Reply notice dated 19.01.2019

Ex.P.26: Counter reply sent by the plaintiff dated 30.01.2019

Ex.P.27 to

Ex.P.30: Postal receipts

Ex.P.31 &

Ex.P.32: Postal acknowledgment

Ex.P.33: Returned postal cover

Ex.P.34: Letter dated 07.02.2019 issued by the plaintiff
to the defendant

List of witnesses examined on behalf of the defendant/s:

D.W.1 : Eluri Venkata Rambabu

List of documents marked on behalf of the defendant/s :

Ex.D.1 : Copy of the work order dated 03.02.2015

Ex.D.2&

Ex.D.3 : Copies of the reply letters

Ex.D.4 : Material Receipt dated 21.01.2017

Ex.D.4(a): Corresponding invoice

Ex.D.4(b): Copy of transport weigh bill

Ex.D.4(c): E-Sugam form

Ex.D.5 : Material receipt dated 21.01.2017

Ex.D.5(a): Corresponding invoice

Ex.D.5(b): Copy of transport weigh bill

Ex.D.5(c): E-sugam form

Ex.D.6 : Material receipt dated 21.01.2017.

Ex.D.6(a): Corresponding invoice

Ex.D.6(b): Transport way bill

Ex.D.6(c): E-sugam form

Ex.D.7 : Material receipt dated 21.01.2017

Ex.D.7(a): Corresponding invoice

Ex.D.7(b): Transport way bill

Ex.D.7(c): E-sugam form

Ex.D.8 : Material receipt dated 25.02.2017

Ex.D.8(a): Corresponding invoice

Ex.D.8(b): Transport way bill

Ex.D.8(c): E-sugam form

Ex.D.9 : Material receipt dated 21.01.2017

Ex.D.9(a): Corresponding invoice

Ex.D.9(b): Copy of transport weigh bill

Ex.D.9(c): E sugam form

Ex.D.10: Material receipt dated 21.01.2017

Ex.D.10(a):Corresponding invoice
Ex.D.10(b):Copy of transport weigh bill
Ex.D.10(c):E sugam form
Ex.D.11: Material receipt dated 21.01.2017
Ex.D.11(a):Corresponding invoice
Ex.D.11(b):Copy of transport weigh bill
Ex.D.11(c):E sugam form
Ex.D.12: Material receipt dated 21.01.2017
Ex.D.12(a):Corresponding invoice
Ex.D.12(b):Copy of transport weigh bill
Ex.D.12(c):E sugam form
Ex.D.13: Material receipt dated 25.02.2017
Ex.D.13(a):Corresponding invoice
Ex.D.13(b):Copy of transport weigh bill
Ex.D.13(c):E sugam form
Ex.D.14: Material receipt dated 27.02.2017
Ex.D.14(a):Corresponding invoice
Ex.D.14(b):Copy of transport weigh bill
Ex.D.14(c):E sugam form
Ex.D.15: Material receipt dated 25.02.2017
Ex.D.15(a):Corresponding invoice
Ex.D.15(b):Copy of transport weigh bill
Ex.D.15(c):E sugam form
Ex.D.16: Material receipt dated 23.01.2017
Ex.D.16(a):Corresponding invoice
Ex.D.16(b):Copy of transport weigh bill
Ex.D.16(c):E sugam form

- Ex.D.17: Material receipt dated 21.01.2017
- Ex.D.17(a):Corresponding invoice
- Ex.D.17(b):Copy of transport weigh bill
- Ex.D.17(c):E sugam form
- Ex.D.18: Material receipt dated 29.01.2017
- Ex.D.18(a):Corresponding invoice
- Ex.D.18(b):Copy of transport weigh bill
- Ex.D.18(c):E sugam form
- Ex.D.19: Receipt dated 16.10.2019
- Ex.D.20: One pen drive in a sealed cover pertaining to the photographs which are Ex.P.4
- Ex.D.21: Copy of 'E' mails dated 26.11.2018 consisting of six pages
- Ex.D.22: Office copy of the letter dated 17.07.2019
- Ex.D.23 &
- Ex.D.24: Postal receipts
- Ex.D.25: Copy of Email dated 22.07.2019
- Ex.D.26: One postal receipts
- Ex.D.27: Notarial certification
- Ex.D.28: Original GPA dated 25.08.2021
- Ex.D.29: copy of reply dated 19.01.2019
- Ex.D.30: Copy of another reply dated 19.01.2019
- Ex.D.31: Certificate U/s 65B of Indian Evidence Act.

LXXXVI Addl. City Civil Judge
Bangalore.