

defendant to carry out measurement of the works done by the plaintiff under the work order dated 1 May 2019, details of which are given in prayer clause (a). The present IA is filed on 9 September 2024 for the said relief.

3. Mr. Gangal learned counsel for the defendant brings to my notice paragraph 2 of the order dated 25 June 2024 in IA L No.10169 of 2024. In said paragraph this Court has observed that the plaintiff will accept the measurement carried out by the defendant without prejudice to the plaintiff's rights and contentions to dispute the same. Mr. Gangal submits that in the light of paragraph 2 this application cannot be entertained and no relief can be granted.

4. Mr. Siddique, learned counsel for the plaintiff states that on his reading of paragraph 2 of the order dated 25 June 2024, the plaintiffs have been given liberty to file a fresh IA on the issue of measurement. He further relied on paragraph No.6, 20, 21 of the Interim Application and submits that there is a discrepancy in the measurement given by the defendant. He further submits that the balance work is at his cost and consequences and therefore it is necessary to get the measurement of the balance work for adjudication of the dispute. He therefore presses for the prayers in the present Interim Application.

5. I have heard learned counsel for the plaintiff and defendant.

6. The relevant paragraph of order dated 25 June 2024 reads as under:

"(a) Direct the Defendant to carry out the measurement of the works done by the Plaintiff under the WO 25937810 dated 01.05.2019 at the site of the construction, ie. Survey Nos. 26/D and 26/C of APSEZ De-notified Area, Rambili Mandal. Atchutapuram. Andhra Pradesh in the presence of a local commissioner in accordance with law,

(b)

(c)

(d)

(e)

(f)

2. After the matter was argued for some time, Learned Counsel appearing for the parties were agreeable that a workable order in terms of prayer clauses (a) and (b) could be passed by this Court. However, in so far as prayer clause (a) is concerned, it is agreed between the Counsel that the measurements of the works done by the Plaintiff under the work order No. 25937810 dated 1st May 2009 has carried out by the Defendant shall be accepted by the Plaintiffs without prejudice to the Plaintiff's rights and contentions to dispute the same However the measurements of the works done by the Plaintiff, which were carried out by the Defendant on 24th April 2024 onwards shall made available to the Plaintiff within a period of one week from today and shall be accepted by the Defendant subject to the Defendant's rights and contentions to the disputes being kept open."

7. There is no dispute that the defendants have given measurement within the time directed by this Court in the order dated 25 June 2024. In my view the contentions raised by learned counsel for the plaintiff cannot be accepted. Paragraph 2 of the above order is clear that the plaintiff will accept the measurement given by the defendant without prejudice to his rights and contentions. There is no liberty given in this paragraph for the plaintiff to re-agitate the issue of measurement by filing a fresh Interim Application. On a reading of paragraph 2, the plaintiff is, however, entitled to dispute at the time of adjudication of the suit.

8. The reliance placed on paragraph 6, 20 and 21 of the interim application for pressing the present IA is also not sustainable at this stage since the measurement which is given by the defendant is subject to final adjudication of the suit where the plaintiff will be at liberty to raise all his contentions with respect to the measurement.

9. In view of above, Interim Application No.30314 of 2024 is dismissed with the above observations.

INTERIM APPLICATION (L) NO.10169 OF 2024

10. List the present Interim Application on 14 October 2025 to enable learned counsel for the defendants to take instructions on paragraph 25 of averments made in the written statement. On the next occasion the parties should also agree on the draft issues so that the matter can be proceeded

further. Liberty is also granted to the plaintiff to take out any Interim Application to bring certain events post filing the suit on record.

(JITENDRA JAIN, J.)