

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.10.2015

CORAM

THE HONOURABLE MR. JUSTICE **G.CHOCKALINGAM**

C.S.No.906 of 2008

Sree Kaderi Ambal Mills Ltd.
Rep.by its Managing Director
S.V.Pethaperumal,
Regd Office at Super B-3,
Industrial Estate,
Madurai 625 007. ..Plaintiff

/vs/

1.M/s Kaveri Gas Power Ltd.,
5/3 Ranganathan Gardens,
Anna Nagar, Chennai 600 040.

2.M/s Agni Steels Pvt.Ltd.,
No.2, Mohan Kumaramangalam Street,
Surampathi, Erode 638 058.

3.M/s Madura Coats Pvt. Ltd.,
New Jail Road, Madurai 625 001.

4.Shri Ramalinga Mills Ltd.,
No.212, Ramasamy Nagar,
Aruppukottai 626 101.

5.Sree Jeya Soundharam Textiles Mills(P) Ltd.,
No.212, Ramasamy Nagar,
Aruppukottai 626 101.

6.Aruppukottai Shri Ramalinga Spinners Pvt. Ltd.,
No.212, Ramasamy Nagar,
Aruppukottai 626 101.

7.M/s Tamil Nadu Jaibharathi Mills Ltd.,
No.212, Ramasamy Nagar,
Aruppukottai 626 101.

8.The Chairman,
Tamil Nadu Electricity Board,
800 Anna Salai, Chennai 600 002.

9.The Member(Generation),
Tamil Nadu Electricity Board,
800 Anna Salai, Chennai 600 002. ..Defendants

PRAYER: This Civil Suit filed under Order IV, Rule 1 of OS Rules read with Order VII Rule 1 of Civil Procedure Code, praying for the following reliefs:

(a) for Specific Performance of the Wheeling Agreement signed by the first defendant on 25.05.2006 with Tamil Nadu Electricity Board pursuant to the wheeling permission granted on 24.5.2006 by the Tamil Nadu Electricity Board to the first defendant as confirmed by the letter of Tamil Nadu Electricity Board dated 21.01.2008.

(b)Consequently for permanent injunction restraining the 1st defendant from discontinuing the power supply to the plaintiff during the subsistence of the wheeling permission granted by Tamil Nadu Electricity Board on 24.5.2006.

(c)For a permanent injunction restraining the first defendant from effecting power supply to the defendants 4 to 7 beyond the share holding of the defendants 4 to 7 without supplying the guaranteed supply of units per month to the plaintiff as per the wheeling agreement dated 25.05.2006 and wheeling permission dated 24.05.2006.

(d)For a declaration that the plaintiff is entitled to supply of power ailed to be effected by the 1st respondent during the months of Oct.07, Nov-07, April-

08 to March-08, June-10 & July-10 and also such other months in default pending the suit by effecting the supplies in the subsequent months.

(e) For a declaration that the plaintiff is entitled to allocation of units of power generated by the 1st respondent slot wise as per their request submitted to them every month and for a consequential relief of injunction restraining the defendants 1, 8 and 9 from allocating units per day every month contrary to the request submitted by the petitioner.

(f) for a declaration that the 1st respondent alone is liable to pay the penalty imposed by the TNEB for any consumption of units by the plaintiff contrary to the slotwise request submitted by the plaintiff.

(g) for a declaration that the 1st defendant alone is liable to pay all the outage charges levied by the TNEB and billed in the plaintiffs account.

(h) for costs and other reliefs.

(amended as per order in I.A.No.220 of 2011 in O.S.No.12117 of 2010 dated 03.08.2013)

For Plaintiff : Mr. T. S. Baskaran

For Defendants : Mr. Vinodhkumar for

M/s PARAS KUHAD and Associates for D1

JUDGMENT

Both the learned counsel for the plaintiff and first defendant are present.

2.The learned counsel appearing for the plaintiff has made an endorsement that the suit as against the defendants 2 to 9 may be dismissed as not pressed.

3.In view of the endorsement made by the learned counsel appearing for the plaintiff, **this suit is dismissed as not pressed as against the defendants 2 to 9. No costs.**

4.The first defendant has entered into a compromise with the plaintiff and they have also filed a joint memo of compromise signed by them and their respective counsels. The terms of the said compromise memo are recorded.

5. The joint memo of compromise filed by the plaintiff and the first defendant reads as follows:

"The plaintiff and the first defendant submit that they have agreed on the following terms of compromise in respect of the subject matter of the instant suit:

1.The plaintiff hereby relinquishes all rights to power supply from the 1st

defendant under the Wheeling permission dated 24.05.2006 and/or the Power Supply Agreement dated 24.09.2005.

2.The plaintiff shall issue a letter to the TANGEDCO/TANTRANSCO/SLDC confirming that it has relinquished its right to seek power supply from the 1st defendant with effect from 29.09.2015 and requesting for the cancellation of open access relating to supply by the 1st defendant to the plaintiff.

3.The 1st defendant shall be entitled to sell the entire power generated at its power plant to consumers of its choice and the plaintiff shall have no objection to the same.

4.On such relinquishment the 1st defendant shall issue a letter to the TANGEDCO/TANTRANSCO/SLDC confirming that it shall have no objection to the plaintiff securing of open access for supply of power from other generators.

5.The plaintiff shall transfer the entire shares held by it in the 1st defendant in terms of Article VI.4 of the Power Supply Agreement dated 24.09.2005 to M/s SREE KADERI AMBAL MILL P LTD for a sum of Rs.45,00,000/- on or before 15th October 2015. Towards such transfer the plaintiff has signed share transfer forms, which can be

submitted to the competent authority without any further authorization from the plaintiff.

6.The plaintiff shall have no claims whatsoever against the 1st defendant, either monetary or otherwise, whether claimed in the suit or not, arising out of Wheeling permission dated 24.05.2006 or the Power Supply Agreement dated 24.09.2005.

7.The 1st defendant shall have no claims whatsoever against the plaintiff, either monetary or otherwise, arising out of Wheeling permission dated 24.05.2006 or the Power Supply Agreement dated 24.09.2005.

8.Since the relief in the suit is only against the 1st defendant, separate compromise is not being entered into by the plaintiff with each of the defendants and the terms of the compromise memo will be with respect all the prayers sought in the suit.

9.The plaintiff and 1st defendant pray that this Hon'ble Court may be pleased to decree the suit in terms of joint memo of compromise and thus render justice."

6. Accordingly, the suit is decreed in terms of the said joint memo of compromise entered into between the first defendant and the plaintiff. The joint memo of compromise shall form part of the decree. There shall be no order as to costs.

sd/.G.C.J

12.10.2015

//Certified to be a true copy//

Dated this the day of 2015.

R.s/15.10.2015

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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