

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 13.7.2015

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

A.S.No.224 of 2014
and

M.P.Nos.1 of 2014 and 1 and 2 of 2015

Tamilnadu Small Industries Corporation
Limited,
Registered under Indian Companies Act,
rep. by its Chairman and Managing Director,
Thiru Vi.Ka.Industrial Estate,
Guindy, Chennai 600 032. ... Appellant/Defendant

Vs.

V.Shanmuga Sundaram ... Respondent/Plaintiff

Appeal against the judgment and decree dated 8.2.2012 in
O.S.No.1553 of 2011 (C.S.No.150 of 1999) on the file of the
Additional District and Sessions Judge, V Fast Track Court,
Chennai.

For Petitioner : Mr.S.Sathiamurthi

For Respondent : Mr.D.R.Sivakumar

JUDGMENT

(Order of the court was made by V.RAMASUBRAMANIAN, J.)

This appeal arises out of a money decree.

2. Heard Mr.S.Sathiamurthi, learned counsel appearing for
the appellant and Mr.D.R.Sivakumar, learned counsel appearing
for the respondent.

3. The respondent herein filed a suit in C.S.No.150 of 1999
on the file of this court for recovery of a total sum of
Rs.11,68,282.50 together with interest at 18% per annum. The
basis of the claim was that the respondent was entrusted with
certain contracts and that there were monies due under those
contracts after execution.

4. After the enhancement of the pecuniary jurisdiction of the City Civil Court, the suit was transferred to Fast Track Court-V, Chennai and re-numbered as O.S.No.1553 of 2011. By a judgment and decree dated 8.2.2012, the suit was decreed. Aggrieved by the money decree, the Tamil Nadu Small Industries Corporation Limited has come up with the above appeal.

5. After hearing the arguments of the learned counsel appearing for both sides in the petition for vacating the stay in M.P.No.1 of 2015, we passed an order on 23.6.2015 to the following effect:-

"After perusing the judgment of the Trial Court and after perusing the pleadings and evidence on record, this Court directed both parties to file independent memos of calculation to show the actual amount of liability, if interest was worked out 9% per annum instead of 18% per annum as ordered by the Trial Court. Today, the learned counsel on both sides have filed independent memos of calculation.

2. For easy appreciation, the calculations are furnished in a tabular column as follows :

	Memo of calculation filed by the appellant	Memo of calculation filed by the respondent
Date of decree in O.S.No. 1553 of 2011 (C.S.No.150 of 1999)	8.2.2012	8.2.2012
Amount awarded in the decree - interest @ 9% p.a. to the principal	Rs.11,68,282.50 Ps	Rs.11,68,282.5 0 Ps
Amount of Rs.7,58,655/- from the date of plaint (22.1.1999 till 22.6.2015)	Rs.11,20,912.76 Ps	Rs.11,20,912.7 6 Ps
Total	Rs.22,89,195.26 Ps	Rs.22,89,195.2 6 Ps

	Memo of calculation filed by the appellant	Memo of calculation filed by the respondent
Amount payable by TANSI - the appellant to the respondent @ 9% p.a./Amount proposed by TANSI for one time settlement	Rs.22,89,195.26 Ps	Rs.22,89,195.26 Ps
Amount already paid by TANSI in the E.P.Court in E.P. No.2469 of 2013	Rs.2,00,000/-	Rs.2,00,000/-
Amount paid by TANSI as per the interim order dated 25.4.2014	Rs.3,00,000/-	Rs.3,00,000/-
The balance amount payable by the appellant - TANSI	Rs.17,89,195.26 Ps rounded off to Rs.17,89,195/-	Rs.17,89,195/-
Plus	cost of the suit Rs.15,210/-	cost of the E.P. claim form Rs.43,691/-
Total	18,04,405/-	Rs.18,32,886/-

3. The above tabular column shows that if interest had been awarded at 9% per annum, the dispute between the parties would get reduced only to Rs.28,000/-. Since the litigation is pending for the past about 16 years from 1999 and also since the matter relates to the contract entrusted way back in 1992, we are of the view that by directing the Tamil Nadu Small Industries Corporation Limited to bring into court a cheque for a sum of Rs.18,32,886/- would put an end to the dispute without any further claim by both parties against each other.

4. Therefore, the Tamil Nadu Small Industries Corporation Limited is directed to bring into court a cheque for a sum of Rs.18,32,886/- (Rupees eighteen lakhs thirty two thousand eight hundred and eighty six only) drawn in favour of Mr.V.Shanmugasundaram. The

learned counsel for the Tamil Nadu Small Industries Corporation Limited shall show the copy of this order, procure a cheque and produce it before court on 06.7.2015.

5. Post for compliance on 06.7.2015."

6. Pursuant to the said order, the appellant Corporation has issued a cheque bearing No.660897 dated 10.7.2015 in favour of the respondent for a sum of Rs.16,64,659/- This amount represents the balance amount payable, after adjusting the amount of Rs.2,00,000/- paid in the Execution Petition and a sum of Rs.3,00,000/- paid as per order dated 25.4.2014. This amount is also arrived at after deducting the Income Tax payable at source. Therefore, with the payment of Rs.2,00,000/- directly made by the appellant to the respondent and with the payment of Rs.16,64,659/- made today by the appellant to the respondent together with a permission to the respondent to get payment out of Rs.3,00,000/- already in court deposit, the entire claim of the respondent against the appellant would stand fully and finally settled without any further claims on both sides.

7. Therefore, the appeal is disposed of to the following effect:-

1) The payment of Rs.16,64,659/- by the appellant to the respondent is recorded.

2) The payment of Rs.2,00,000/- by the appellant to the respondent in the Execution Petition is also acknowledged.

3) The Trial Court or the Executing Court or this Court wherever the appellant has deposited Rs.3,00,000/- shall order payment out of that amount to the respondent, without any further adorn.

8. With the above payments, the dispute between the appellant and the respondent stands fully and finally settled. There shall be no order as to costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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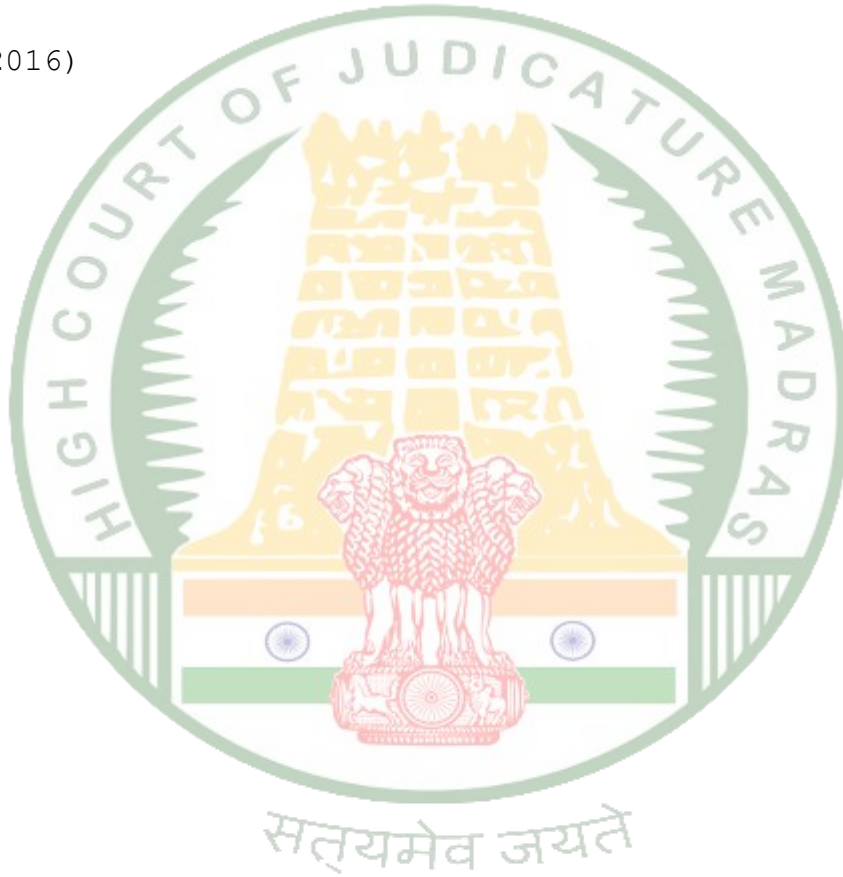
To

The Additional District and Sessions Judge,
V Fast Track Court, Chennai.

+2cc's to Mr.S.D.Ramalingam, Advocate, S.R.Nos.30605 & 35757
+1cc to Mr.S.Sathiamoorthi, Advocate, S.R.No.35272

A.S.No.224 of 2014

UG(CO)
CA(21/03/2016)



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