

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.02.2015

CORAM

THE HONOURABLE Mrs. JUSTICE. **S.VIMALA**

C.S.No.1032 of 2010

M/s.Rajalakshmi Educational Trust,
Represented by its Authorized Representative,
Mr.V.K.Balaji,
69, New Avadi Road,
Kilpauk, Chennai 600010 Plaintiff

Vs.

1.Kotak Mahindra Bank Limited
Represented by its Branch Manager,
Parrys Branch,
Chennai 600001.

2.M/s.Om Shakthi Travels Private Limited
Represented by its Managing Director,
Mr.R.Saravanan,
S-1, 2nd Floor, Kurian Complex,
No.19, Railway colony 1st Street,
Chennai 600 029. Defendants

PRAYER : This suit filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of C.P.C. Praying (a) For a Declaration declaring that the 1st Defendant is not entitled to exercise any charge/lien or to withhold the issuance of the "No Dues Certificates" and the Form 35 duly endorsed by the 1st Defendant in respect of the Five Buses bearing Registration Nos.TN-02-U-5268, TN-02-U-5269, TN-02-U-5661, TN-20-AB-1789 and TN-20-AB-1954 to the Plaintiff and the Plaintiff alone is entitled to receive the "No Dues Certificates" and Form 35 duly endorsed by the 1st Defendant in respect of the said Five Buses consequent to the sale of

the same effected by the 2nd Defendant in favour of the Plaintiff and the receipt of the sum of Rs.18,05,405/- by the 1st Defendant from the Plaintiff on 05/01/2009 in Full and Settlement of the loan accounts of the said buses; (b) For a Mandatory injunction directing the 1st Defendant to issue the "No Dues Certificates" and Form 35 duly endorsed in respect of the Five buses bearing Registration Nos.TN-02-U-5268, TN-02-U-5269, TN-02-U-5269, TN-02-U-5661, TN-20-AB-1789 and TN-20-AB-1954 to the Plaintiff consequent to the sale effected by the 2nd Defendant in favour of the Plaintiff and the receipt of the sum of Rs.18,05,405/- by the 1st Defendant from the Plaintiff on 05/01/2009 in Full and Final Settlement of the loan accounts of the said buses, so as to enable the Plaintiff to effect the name transfer in their favour.(c) for a permanent injunction restraining the Defendants from entering into or give effect to any arrangement/settlement for settling/realizing the dues of the 2nd Defendant to the 1st Defendant contemplating the sale/transfer of the Five Buses bearing Registration Nos.TN-02-5268, TN-02-U-5269, TN-02-U-5269, TN-02-U-5661, TN-20-AB-1789 and TN-20-AB-1954 already sold by the 2nd Defendant to the Plaintiff and in respect of which the 1st Defendant had received a sum of Rs.18,05,405/- from the Plaintiff on 05/01/2009 as full and final settlement of the loan accounts of the said buses; (d) for a Permanent injunction restraining the Defendants, their men, agents, servants etc

from and in any manner selling, transferring or alienating the Five Buses bearing Registration Nos.TN-02-U-5268, TN-02-U-5269, TN-02-U-5269, TN-02-U-5661, TN-20-AB-1789 and TN-20-AB-1954 and/or issue the "No Dues Certificates" and Form 35 duly endorsed by the 1st Defendant to any person other than the Plaintiff including the 2nd Defendant, for realizing the debts of the 2nd Defendant to the 1st Defendant or otherwise;

(e) Directing the Defendants to jointly and severally pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) as Liquidated damages to the Plaintiff for the loss of name, reputation and standing caused to them by reason of the illegal, arbitrary, reckless and malafide actions of the Defendants in getting the buses already sold by the 2nd Defendant to the Plaintiff and in respect of which the 1st Defendant had received a sum of Rs.18,05,405/- from the Plaintiff on 05/01/2009 as Full and Final Settlement of the said loan accounts, seized through an Advocate Commissioner under false pretexts; (f) Directing the Defendants herein to pay the costs of this suit to the Plaintiff.

For Plaintiff : Mr.T.Thiyageswaran

JUDGMENT

The learned counsel appearing for the Plaintiff has represented that the matter has been settled out of Court. He has also made an endorsement to that effect.

2. In view of the submission made by the learned counsel for the Plaintiff and also in view of the endorsement made, this Suit is dismissed as settled out of Court and half of the Court fee is ordered to be refunded as per rules. No costs.

Sd/.S.V.J

26.02.2015

//Certified to be a true copy//

Dated this the day of 2016

R.s/07.01.2016

COURT OFFICER

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

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