

**C.S.No.585 of 2010, 604 of 2010, 695 of 2010, 706 of 2010,
707 of 2010, 958 of 2010, 1015 of 2010**

B. RAJENDRAN, J

The Civil Suits are listed today under the caption "for being mentioned".

2. By an order dated 09.04.2015, this Court disposed of the above Civil Suits. At the time when the order dated 09.04.2015 was passed, the plaintiffs agreed to refund 50% of the court fee. But at the same time, the State Bank of India, being the beneficiary of the settlement of the dispute, has no scope for payment of any Court fee. However, the learned counsel representing State Bank of India fairly stated that the Bank has agreed to pay half of the which is equivalent to Rs.7,50,000/-. But, in the order dated 09.04.2015, no such direction was issued to the State Bank of India to deposit the amount. Therefore, the order dated 09.04.2015 is required to be modified by incorporating the direction to State Bank of India to deposit the amount to the credit of the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras. Therefore, by consent of both parties, the said portion is now incorporated in paragraphs 10 of the order. Accordingly, paragraph 10 of the order dated 09.4.2015 shall read as follows:

10. In terms of the settlement arrived at between the parties, Registry is directed to refund the Court fee to the plaintiffs as contemplated under Section 69-A of the Tamil Nadu Court Fee and Suit Valuation Act. The plaintiffs shall, as agreed by them, pay 50% of the Court fee so refunded to them directly to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, as expeditiously as possible,

preferably within a period of four weeks from the date of receipt of certificate for refund. Similarly, State Bank of India, being the beneficiary of the settlement of dispute, shall, as agreed by them, voluntarily pay a sum of Rs.7,50,000/- to the credit of the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras. It is also open to the State Bank of India, to file necessary application for 'payment out'.

3. Except the above modification in para No.10 in the order dated 09.04.2015, in all other respects, the order dated 09.04.2015 shall remain unaltered.

02.07.2015

rsh/ga

C.S.No.585 of 2010, 604 of 2010,
695 of 2010, 706 of 2010,
707 of 2010, 958 of 2010,
1015 of 2010

02-07-2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2015

CORAM

THE HON'BLE MR. JUSTICE B.RAJENDRAN

C.S.Nos. 585/2010, 604/2010, 695/2010,
706/2010, 707/2010, 958/2010, 1015/2010
and

Application Nos. 2321/2011, 5989/2010, 3330/2010,
3267/2014, 13/2013, 3069/2012, 3197/2010
in C.S.No. 585/2010

and

Application Nos. 6468/2010, 5827/2010, 3484/2010,
3250/2014, 3425/2010 in C.S.No. 604/2010

and

Application Nos. 3251/2014, 5979/2010,
4224/2010 in C.S.No. 695/2010

and

Application Nos. 2634/2011, 3252/2014, 5338/2010
in C.S.No. 706/2010

and

Application Nos. 3253/2014, 5339/2010 in C.S.No. 707/2010

and

Application Nos. 6714/2010 in C.S.No. 958/2010

and

Application Nos. 7237/2010, 3254/2014 in C.S.No. 1015/2010

C.S.No. 585 of 2010:-

M/s.Chidambaram Shipcare Private Limited

38, First Floor

Second Line Beach

Chennai-600 001

Represented by its

Director & Principal Officer

Mr.Ramdas S.Iyer

.. Plaintiff

Versus

Owners and Parties Interested

In the Vessel MV Coastal Express-2

Now lying at the Port of Chennai

and represented by its Master

.. Defendant

Prayer in C.S.No. 585 of 2010:-

Plaint filed under Order XLII Rules 1 and 2 of Original Side Rules read with Order VII Rule 1 of C.P.C. for a judgment and decree against the defendant (a) for a sum of Rs.11,14,963.90 with interest at the rate of 24% p.a. from the date of this plaint till date of realisation; (b) for arrest and sale of the defendant Vessel MV Coastal Express-2 in as is where is condition, presently in Indian Waters at Port of Chennai; (c) for a direction to adjust the sale proceeds of the defendant Vessel MV Coastal Express-2 against the suit claim; and (d) for costs.

For Plaintiff
in C.S.No.585/2010 : Mr.S.Vasudevan

For Defendant : M/s.Manavalan Associates
in C.S. 585/2010

* * *

COMMON JUDGMENT

These Civil Suits and the applications were referred to Tamil Nadu Mediation and Conciliation Centre, High Court, Madras.

2. A communication dated 08.04.2015 of the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, enclosing a copy of its report dated 01.04.2015 has been received, wherein it is stated that the Mediation proceedings have been completed and the matter is sent back to Court for recording the settlement reached before the Mediation Centre.

3. As the parties have arrived at a settlement in terms of the Joint Memo of Compromise, dated 27.03.2015, these Civil Suits and the applications are listed for passing of judgment in terms of the settlement. The third party

Intervenors have filed applications seeking to permit them to intervene in all the above suits. The applications seeking to intervene are allowed.

4. I have heard the learned counsel appearing for the plaintiffs, defendants and also learned counsel appearing for the third party Intervenors.

5. The Joint Memo of Compromise dated 27.03.2015 arrived at by the respective parties out of their own volition and without any pressure or coercion from any side, signed by the parties and their respective counsel, in a nut-shell is as follows :-

Case Number	Amount Claimed	Amount Settled in Mediation
C.S.No. 585/2010	Amount claimed in Appln. No.2321/2011 is Rs. 21,75,211/- Amount claimed in Appln.No.2322/2011 is Rs.11,86,756/-	The Intervenor has agreed to receive a sum of Rs. 17,50,984/- towards full and final settlement of all their claims made in both these applications.
C.S.No. 604/2010	Suit Claim is Rs.38,01,000/-	The plaintiff has agreed to receive a sum of Rs. 19,00,000/- towards full and final settlement of all their claims made in the suit.
C.S.No. 695/2010	Suit Claim is Rs.31,06,95,662.26	Plaintiff has agreed to receive a sum of Rs.7,00,000/- towards full and final settlement of their claims made in the Suit.
C.S.Nos. 706 &	Suit is for recovery of	The plaintiff has

Case Number	Amount Claimed	Amount Settled in Mediation
707 of 2011	Rs.85,51,234/- . Amount claimed in Application No.2957/11 is Rs.59,26,267/-	agreed to receive a sum of Rs.46,00,000/- towards full and final settlement of all their claims made in both suits. The Intervener has agreed to receive a sum of Rs.29,00,000/- towards full and final settlement of all their claims made in this application.
C.S.No. 958/2010	Suit Claim is Rs.1,02,05,944.56	The plaintiff has agreed to receive a sum of Rs.49,50,000/- towards full and final settlement of all their claims made in the suit.
C.S.No. 1015/2010	Suit is for recovery of Rs.22,90,028/-.	The plaintiff has agreed to receive a sum of Rs.11,00,000/- towards full and final settlement of all their claims made in the suit.

6. In the Mediation Report submitted before this Court, it is seen that the State Bank of India has agreed for settlement of their claim on the following terms:-

- i. The sum of Rs.10,00,00,000/- (Rupees Ten Crores only) paid out of the sale proceeds as per orders of Court stands adjusted towards their dues.

- ii. The Bank will be paid a further sum of Rs.3,75,00,000/- (Rupees Three Crores Seventy Five Lakhs only) from the amount lying in Deposit with Indian Bank, High Court Branch, to the Credit of the above suit.
- iii. Any surplus after payment of all the amount settled in the suits will be paid to the Bank.
- iv. The Borrower agrees to pay the balance OTS amount to the Bank as per the OTS letter dated 26.03.2015.”

7. Today, when these matters are taken up, it is represented by learned counsel appearing for the respective parties that the amount lying in bank deposit to the credit of the suits has to be distributed. As per the Joint Memo of Compromise, since, a major portion of amount has to be given to the State Bank of India, a request has been made by the said Bank that instead of giving the amount by way of cheque, it can be directly send by R.T.G.S., on an application made by the State Bank of India. All the parties have agreed for such course as well as for the settlement.

8. At this moment, some of the parties in appreciation of the mediation work carried out by the Mediation Centre have voluntarily consented to give a share of their respective Court fee to Mediation Centre.

9. Taking this as a guiding factor, it is suffice to state that the State Bank of India being the main beneficiary, who has got Rs.15.75 Crores by way

of the settlement arrived at in the Mediation. Further there is a possibility for the State Bank of India to get some more benefits by way of the settlement to be arrived at in the connected cases before Mediation. Had the State Bank of India moved the Court, they would have paid 1% of Court fee as a nominal amount. Therefore, the plaintiffs in the Suits have voluntarily agreed to forego 50% of the Court fee already paid before this Court and the said 50% of the Court fee. The said statement of the plaintiff is recorded.

10. In terms of the settlement arrived at between the parties, Registry is directed to refund the court fee to the plaintiffs as contemplated under Section 69-A of the Tamil Nadu Court Fee and Suit Valuation Act. The plaintiffs shall, as agreed by them voluntarily, pay 50% of the court fee so refunded to them directly to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of certificate for refund.

10. These Civil Suits and Application Nos. 2321 and 2322 of 2011 in C.S.No. 585 of 2010 and Application No. 2957 of 2011 in C.S.No.706 of 2010 are ordered on above terms. The Joint Memo of Compromise filed by the parties as well as the third party Intervenors on 27.03.2015 and signed by the parties and their respective counsel in each Civil Suit and the report of the Mediation Centre dated 01.04.2015 shall form part of this judgment. In view of the above compromise entered into between the parties and the third party intervenors, the connected Miscellaneous Petitions are closed.

09.04.2015

paa/rsh

B.RAJENDRAN, J

paa/rsh

C.S.Nos. 585/2010, 604/2010,
695/2010, 706/2010, 707/2010,
958/2010, 1015/2010

09.04.2015

