

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The Hon'ble MR.JUSTICE M.M.SUNDRESH

O.S.A. Nos.41 and 42 of 2016

M/s.Vision X Global Media
Entertainment Ltd.,
Rep. By its Managing Director,
Mr.Dinesh.

... Appellant in both Appeals

-vs-

1. S.Murugan ... R-1 in OSA 41/2016 &
R-2 in OSA 42/2016

2. M/s.Karur Vysya Bank Limited,
Rep. By its DGM, Mr.J.Hariharan,
Divisional Office, KVB Towers (I Floor)
No.568, Anna Salai, Teynampet, Chennai.

3. Paramasivam Pillai

4. M/s.Ashoka Associates
Rep. By its Partner, Mr.V.Manthiram.

5. M/s.Pyramid Saimira Theatre Limited,
Nandanam, Chennai.

6. M/s.Lavanya and Co.,
Rep. By Mr.N.Narayanan.

7. The Hon'ble Receiver,
Mr.Justice K.Swamidurai,
M/s.Aruna Theatres and Enterprises
Pvt Ltd., Chennai.

... RR 2 to 7 in OSA 41/2016
& RR3 to 8 in OSA 42/2016

8. M/s.Aruna Theatres and Enterprises
Pvt. Ltd.,
Rep. By its Board of Directors,
Chennai.

... R-8 in OSA 41/2016 &
R-1 in OSA 42/2016

9. M/s.Annai Mookambigai Roller Flour
Mills Ltd., No.6, Davidson Street,
Chennai.

10.K.Muthusamy

11.N.Sankaranarayanan

12.N.Arunachalthammal

13.K.Shanmugasundaram

14.S.Ulagammal

15.M.Sharmila

16.K.Muthu Kalyanasundaram

17.S.Vallinayagam, Minor,
N/F Ulagammal.

18.M.Indira Muthuvel

19.S.Ananda Saraswathi

20.M.Bagavathi

21.P.Krishnamoorthy

22.B.Muthulakshmi

23.M.Sundari

24.R.Vallidevi

25.K.Muthulakshmi

26.S.Indira

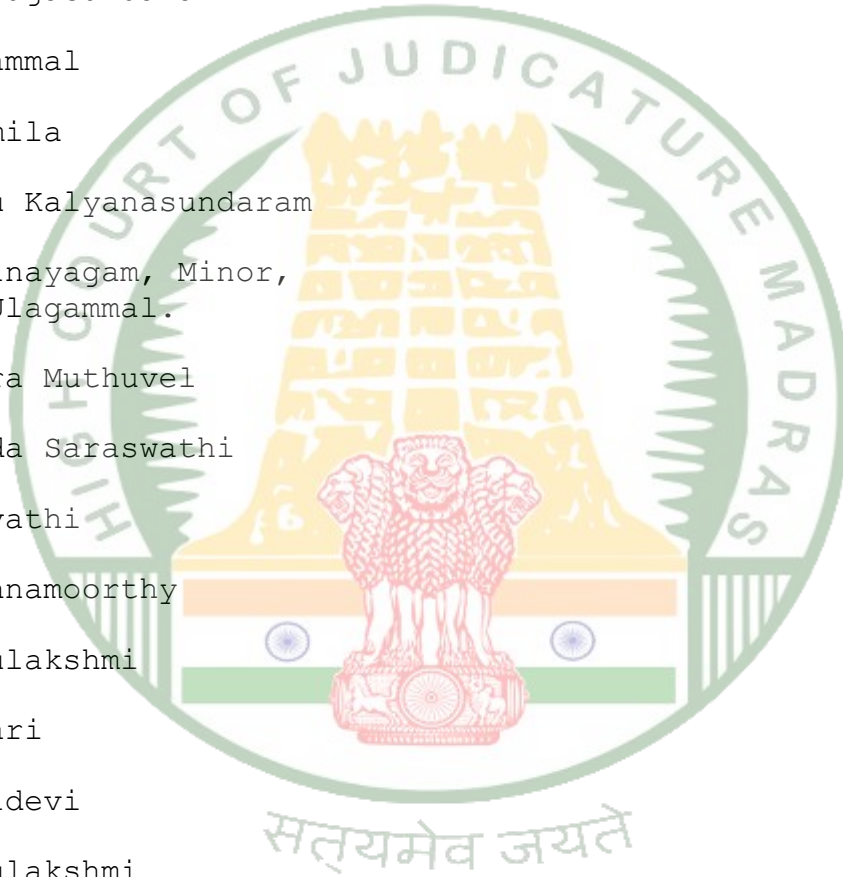
27.V.Bhuvaneswari

28.K.Muthu Selvakumar

29.S.Ramalingam

30.S.Sankaran

31.S.Narayanan



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32.S.Paramasivam Pillai

33.S.Selvaraj

34.N.Gomathinayakam

35.P.Muthu Rajeswari

36.G.Vasugi

37.R.Lakshmi

38.K.Murugan

39.K.Muthukrishnan ... Respondents 9 to 39
in both Appeals

Appeals filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of the Letters Patent against the order and decretal order dated 11.02.2016 in Application Nos.3000 of 2015 and 5992 of 2014 in C.S.No.937 of 2007 on the file of original side of this Court.

For Appellant
in OSA 41/2016 : Mr.P.H.Aravind Pandian, S.C.
For Mr.Hari Shankar Mani

in OSA 42/2016 : Mr.Sathish Parasaran
for Mr.Kumarapal.R.Chopra

For Respondents : Mr.R.Sagadevan for R-6 in OSA
41/2016 & R-7 in OSA 42/2016

: Mr.Umashankar for R-8 in OSA
41/2016 & R-1 in OSA 42/2016

: Mr.R.Rajesh for Caveator-R 39

COMMON JUDGMENT

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

We have heard the learned counsel for parties and on instructions, learned counsel for parties have been able to settle the dispute in question.

2.The controversy pertains to the EMD of Rs.9,50,10,000/- deposited in 2013 on the bid auction. The owner of the property

now would like to keep the property as prices have gone up tremendously and has been able to arrange funds to settle the dues. Simultaneously, the appellant did not come up with the funds and by the impugned order dated 11.02.2016, the amount stands forfeited.

3.The principle of equitability has been accepted by all the parties on account of drastic increase in the price of the property and the amount of the bidder remained blocked and that too a substantive amount. Simultaneously, the appellant cannot get the benefit which has accrued in respect of the amount deposited. The groups of shareholders created various impediments in concluding the transaction.

4.On the basis of the affidavit filed by the eighth respondent, it transpires that for the years 2013-2014, 2014-2015 and 2015-2016, the total interest accrued on the EMD is Rs.2,22,91,314/-. There has been an outflow of income tax for the first two financial years and for the third financial year, it has to be paid. The total income tax outflow is Rs.72,82,486/-. Apart from this, there is advertisement expenses of Rs.30,39,853/-, totalling to Rs.1,03,22,339/- (Rs.72,82,486/- + 30,39,853/-).

5.The effect, thus, is that the remaining amount out of accrued interest is Rs.1,19,68,975/- (Rs.2,22,91,314/- - Rs.1,03,22,339/-), which has to go to the benefit of the other creditors who have been waiting for the amount. It, however, appears that there is some difference in the amount in the context of the third instalment of income-tax not paid and the amount of advertisement expenses already having been paid by the company. The result is stated to be that an amount of Rs.1,68,43,023/- is available to be allocated for satisfying the creditors.

6.It is, thus, agreed as under:

1. The sum of Rs.9,50,00,000/- (Rupees nine crores and fifty lakhs only) be released by the Receiver to the appellant on or before 7th April, 2016, by the Receiver;
2. The claim of the appellant in appeal stands fully satisfied on the aforesaid amount being paid to the appellant;
3. Out of the interest amount, the outflow for income-tax and advertisement expenses will be deducted and the balance amount would be for the benefit of the sixth respondent-creditor, i.e., M/s.Lavanya and Co.;
4. On the issue as to the quantification of amount qua the sixth respondent-creditor, the parties have agreed

that it will be determined by the Receiver as per earlier order of Division Benches of this Court and be, accordingly, released to the sixth respondent-creditor.

5.

7.The sixth respondent-creditor and the eighth respondent / M/s.Aruna Theatres and Enterprises Pvt. Ltd., jointly request that once the accounts inter se are settled, to facilitate complete satisfaction of the claim of the sixth respondent-creditor, the eighth respondent-company may have to raise a loan, for which the sixth respondent-creditor will release the title deeds directly in favour of the bank, which would simultaneously remit the payment to the sixth respondent-creditor.

8.Original Side Appeals, accordingly, stand disposed of as compromised in the aforesaid terms. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sra

To

The Sub Assistant Registrar,
Original Side, Madras High Court,
Chennai.

+1cc to Mr.C.Umashankar, Advocate, S.R.No.18782
+1cc to Mr.Hari Shankar Mani, Advocate, S.R.No.18839
+1cc to Mr.R.Sagadevan, Advocate, S.R.No.18481
+1cc to Mr.A.V.Radhakrishnan, Advocate, S.R.No.18469

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LRS (CO)
CA(29/03/2016)

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