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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P. (PD) Nos.3526 and 3527 of 2016

and

CMP Nos.17903 and 17904 of 2016

CRP (PD) No.3526 of 2017

P.I.Jambert Mathuram

.. Petitioner

versus

1. HDFC Bank,
Rep. by its Manager,
No.3, 2nd Line beach,
Mc Dewells House,
Chennai - 600 001

2. J.M. John Paul @ J.J.Mannan
Managing Director,
Mannan Constructions Corporation Ltd.,

3. Mannan Constructions Corporation Ltd.,
Formerly known as
M/s.Immanuel Project Pvt. Ltd.,
Rep. by its Director,
J.M.John Paul @ J.J.Mannan

4. Mannan Contract Services Ltd.,
No.141, CGE Colony, 5th Street,
Tuticorin - 628 003

.. Respondents

Civil Revision Petition filed under Article 227 of Constitution of India, against the order dated 20.10.2016 made in M.A.No.31 of 2016 on the file of the Debts Recovery Appellate Tribunal, Chennai confirming the order dated 07.03.2016 in I.A.No.127 of 2013 in OA No.6 of 2007.



For Petitioner : Mr.K.P.Narayanan
For Respondents : Mr.I.Mohamed Abdul Azeez (for R1)
for AAV Partners.
Mr.K.Venkatasubban (for R2 to R4)

WEB COPY CRP (PD) No.3527 of 2016

P.I.Jambert Mathuram

.. Petitioner

versus

1. HDFC Bank,
Rep. by its Manager,
No.3, 2nd Line beach, Mc Dewells House,
Chennai - 600 001

2. J.M. John Paul @ J.J.Mannan
Managing Director,
Mannan Constructions Corporation Ltd.,

3. Mannan Constructions Corporation Ltd.,
Formerly known as
M/s.Immanuel Project Pvt. Ltd.,
Rep. by its Director, J.M.John Paul @ J.J.Mannan

4.K.Perumalsami

5.J.Merita

6.P.Jebaseelan Daniel Raj

.. Respondents

Civil Revision Petition filed under Article 227 of Constitution of India, against the order dated 20.10.2016 made in M.A.No.30 of 2016 on the file of the Debts Recovery Appellate Tribunal, Chennai confirming the order dated 07.03.2016 in I.A.No.126 of 2013 in OA No.5 of 2007, on the file of the Debts Recovery Tribunal-II, Chennai.

For Petitioner : Mr.K.P.Narayanan
For Respondents : Mr.I.Mohamed Abdul Azeez (for R1)
for AAV Partners.
Mr.K.Venkatasubban (for R2 and R3)
Mr.G.Rajan (for R4)
Mr.S.Annamalai (for R6)

COMMON ORDER

Civil Revision Petitions are filed against the orders dated 20.10.2016 made in M.A.Nos.31 & 30 of 2016 on the file of the Debts Recovery Appellate Tribunal, Chennai, confirming the orders dated 07.03.2016 made in I.A.Nos.127 & 126 of 2013 in OA Nos.6 & 5 of 2007, on the file of the Debts Recovery Appellate Tribunal-II, Chennai.



2. On 11.11.2016, while ordering notice of motion through Court and privately, returnable by 18.11.2016, a Hon'ble Division Bench of this Court granted interim stay of the impugned proceedings till 18.11.2016. Thereafter, interim stay granted has been periodically extended. On 03.02.2017, we passed the following orders.

"Record of proceedings shows that on 22.12.2016, we granted the interim stay of the impugned proceedings, which has been extended on 24.01.2017.

Mrs.Reka, learned counsel appearing for HDFC Bank, 1st respondent submitted that Yesterday, a sum of Rs.60 Lakhs was paid, by the petitioner's son. Today, a further sum of Rs.80 Lakhs has been paid. She further submitted that talks of settlement is going on.

With reference to the above submission, she sought time.

Post on 20.02.2017. Till then, interim stay already granted is extended."

3. On this day, when the Civil Revision Petitions came up for further hearing, Mr.I.Mohammed Abdul Azeez, learned counsel representing HDFC Bank submitted that parties, have arrived at a settlement and accordingly, entered into a memorandum of understanding dated 06.02.2017. Mr.K.P.Narayanan, learned counsel for the petitioner has submitted an attested copy of the memorandum of understanding, details of which, are extracted hereunder.

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING is made at Chennai, on this day of February, 2017.

BETWEEN

M/s.HDFC Bank Ltd., represented by its Authorized Signatory, having its office at No.110, Ceebros Building, N.M.Road, Chennai - 600 029, hereinafter referred as the PARTY OF THE FIRST PART.

AND

1. Mr.J.M.John Paul, S/o. Mr.P.I.Jambert Mathuram, aged about 39 years, having address at No.41, CGE Colony, 5th Street, Tuticorin - 628 003.

2. M/s.Immanuel Project Pvt. Ltd, Rep. by its Director, Mr.J.M.John Paul, having its address at No.41, CGE Colony, 5th Street, Tuticorin - 628 003, hereinafter collectively referred as the PARTY OF THE

SECOND PART.



The terms "Party of the First Part" and " Party of the Second Part" shall mean and include their representative, heirs, successors, administrators, legal representatives and assigns.

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WHEREAS the PARTY OF THE FIRST PART is a Banking Company which is duly registered under the Companies Act and also abide by the guidelines of the RBI. In its ordinary course of business extends financial assistance to this borrowers under various schemes of Loans and facilities, which shall be repaid by the borrowers as per the terms and conditions agreed there upon and on the failure of the borrowers to repay their dues, their account shall be classified as "Non Performing Asset" in line with the rules and regulations stipulated by the Regulatory Authority, and wherever such loans are secured with mortgage or hypothecation of Secured asset, Recovery action shall be initiated under appropriate Law in force.

WHEREAS, the PARTY OF THE SECOND PART had availed the various Loans from the PARTY OF THE FIRST PART for purchasing of Commercial Equipments and executed the Loan Agreement and other necessary documents therein

WHEREAS, the PARTY OF THE SECOND PART had availed various loans totally to the tune of Rs.3,96,97,000/- (Rupees Three Crores Ninety Six Lakhs Ninety Seven Thousand Only)

WHEREAS, the PARTY OF THE SECOND PART had committed default in payment of the said loan dues as a result of which their account was classified their account as a non performing asset subsequently. Hence to recover the said amount the PARTY OF THE FIRST PART had initiated legal proceedings In ding (civil & criminal) before the appropriate Courts of law.

WHEREAS, the PARTY OF THE FIRST PART herein has initiated the legal proceedings against the PARTY OF THE SECOND PART before the appropriate Courts of law is mentioned hereunder:

- i) O.A. No.5 of 2007 on the file of the Debt Recovery Tribunal- II, Chennai for a sum of Rs. 2,68,39,165.69 which is pending.
- ii) O.A. No.6 of 2007 on the file of the DRT- II, Chennai for a sum of Rs. 1,26,92,024.66 which is pending.

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- iii) C.C. No.4392 of 2010 to C.C. No.4399 of 2010 totally 8 cases on the file of the Chief Metropolitan Magistrate, Egmore, Chennai which are

pending.



WHEREAS, the PARTY OF THE SECOND PART herein had initiated proceedings against the PARTY OF THE FIRST PART before the appropriate Courts of law are mentioned hereunder:

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- i) M.A.No.102 of 2013, M.A.No.103 of 2013 and M.A.No.105 of 2013 on the file of the Debt Recovery Appellate Tribunal, Chennai.
- ii) C.R.P. No.3526 of 2016 and C.R.P. No.3527 of 2016 on the file of the Hon'ble High Court Madras.

WHEREAS, the PARTY OF THE SECOND PART has approached the PARTY OF THE FIRST PART and negotiated to settle pending loan accounts and settle the issues in an amicable manner. Further, the PARTY OF THE SECOND PART has expressed their willingness to pay a sum of Rs.2,10,00,000/- (Rupees Two Crores Ten Lakhs Only) as full and final Settlement towards the closure of the entire loan account. Further the PARTY OF THE SECOND PART has so far paid the entire amount of Rs.2,10,00,000/- (Rupees Two Crores Ten Lakhs Only)

WHEREAS, the PARTY OF THE FIRST PART also agreed for the said proposal.

WHEREAS, the PARTY OF THE FIRST PART and the PARTY OF THE SECOND PART are hereby mutually agreed to withdraw the cases filed by them in the respective Court / Tribunals subject to the terms conditions herein recorded.

NOW, THEREFORE, THIS MEMORANDUM OF UNDERSTANDING WITNESSETH:

1. The PARTY OF THE SECOND PART has now paid the entire sum of Rs.2,10,00,000/- (Rupees Two Crores Ten Lakhs Only) by way of RTGS to the PARTY OF THE FIRST PART towards the closure of the respective loan accounts and the receipt of the said sum is hereby acknowledged by the Party of the First Part.

2. The PARTY OF THE FIRST PART has received the said sum of Rs.2, 10,00,000/- (Rupees Two Crores Ten Lakhs Only) as full and final settlement towards the closure of the respective loan accounts of the PARTY OF THE SECOND PART.

3. Thus, the PARTY OF THE FIRST PART hereby agrees to issue No Objection Certificate (NOC) in the name of the PARTY OF THE SECOND PART within 20 working days.

4. Thus the PARTY OF THE FIRST PART is hereby agrees to withdraw all pending cases filed against the PARTY OF THE SECOND PART as aforementioned pending before various Tribunals and Courts.



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5. Similarly, the PARTY OF THE SECOND PART also hereby agreed to withdraw all pending cases filed against the PARTY OF THE FIRST PART as aforementioned pending before various Tribunals and Court.

6. The PARTY OF THE FIRST PART and The PARTY OF THE SECOND PART are hereby agreed that they shall not make any further claim against each other.

7. In view of the payment of Rs.2,10,00,000/- (Rupees Two Crores Ten Lakhs Only) made by the PARTY OF THE SECOND PART in full and final settlement and PARTY OF THE FIRST PART having acknowledged the receipt of the money towards its credit PARTY OF THE FIRST PART has today signed Memos reporting settlement before Debts Recovery Tribunal (DRT-II) Chennai in O.A.Nos.S& 6 of 2007 to be filed before the said Tribunal.

8. Neither Party is compelled or coerced and out of free will and volition have set their hands and have signed this MOU."

True copy of the Memorandum of Understanding dated 06.02.2017, produced before this Court, be treated as part of record.

4. In terms of the Memorandum of Undertaking dated 06.02.2017, Civil Revision Petitions are disposed of, as above. No costs. Consequently, the connected Civil Miscellaneous Petitions, are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

The Presiding Officer,
Department Recovery Tribunal
Chennai.

+1cc to Mr.G. Rajan Advocate, SR. 10752

+2cc to Mr. K.P. Narayanan Advocate SR. 10638

C.R.P. (PD) Nos.3526 and 3527 of 2016
and
CMP Nos.17903 and 17904 of 2016

KS (CO)
VR(07/03/2017)