

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 21ST DAY OF MARCH 2017

THE HON'BLE DR. JUSTICE S.VIMALA

A.No.1772 of 2017

in

A. No.5508 of 2016

In the matter of Arbitration and
Conciliation Act, 1996

And

In the matter of Arbitration of the
dispute between TVS Credit Services
Limited and N.Thiraviam, Loan
Agreement No.TN3007CA0000982 dated
28.10.2015.

M/s.TVS Credit Services Limited,
rep. by its Authorised Signatory,
Mr.M.G.Ramesh Anand,
"Jayalakshmi Estate",
No.29, Haddows Road,
Chennai-600 006. Applicant

-Versus-

N.Thiraviam,
S/o.Narayana Vadivoo, सत्यमेव जयते
O. No.4/953, N. No.4/39,
Athiparasakthi, Om Samthi Nagar,
Sankaraperi, Tuticorin-628 002. ... Respondent

A.No.1772 of 2017:

T.Gopinath Prabhu
Old No.4/95J, New No.4/39
Adhiparasakthi Nagar, Sanakaraperi
Tuticorin 628 002.

..Applicant/3rd party

vs

M/s.TVS Credit Services Limited,
rep. by its Authorised Signatory,
Mr.M.G.Ramesh Anand,
"Jayalakshmi Estate",
No.29, Haddows Road,
Chennai-600 006.

... Respondent/Applicant

Application praying that this Hon'ble Court be pleased to recall the order dated 25th October 2016 made in Appln.No.5508 of 2016 on the file of this Hon'ble court.

This application coming on this day before this court for hearing the court made the following order:-

Heard the learned counsel for the applicant and the learned counsel for the respondent.

2. This application has been filed by the 3rd party, who is the son of the respondent in A.No.5508 of 2016, seeking to set aside the order of this Court dated 25.10.2016 passed in A.No.5508 of 2016.

3. This Court, by order dated 25.10.2016, has passed an order in A.No.5508 of 2016, filed under Section 9 of Arbitration and conciliation Act, appointing Advocate Commissioner to seize and possess the vehicle.

4. While appointing the Advocate Commissioner, this Court has also stipulated a condition that proceedings for arbitration should have been commenced within a period of six weeks from the date of receipt of a copy of the order.

5. It is represented that already Arbitrator has been appointed and the process of arbitration is on.

6. It is now brought to the notice of this Court that immediately after the agreement, i.e. the next day after agreement, i.e. on 29.10.2015, the respondent in Application No.5508 of 2016 passed away and the order dated 25.10.2016 passed by this Court is against the dead person, which is nullity.

7. It is not in dispute that the respondent in A.No.5508 of 2016 died on 29.10.2015. Therefore, the order against the dead person is nullity and non est in the eye of law. Therefore, the order dated 25.10.2016 passed in A.No.5508 of 2016 stands revoked and this application is ordered accordingly. Consequently, possession of the vehicle shall be handed over to the applicant herein, i.e. the 3rd party.

8. Considering the chances of settlement as conceded by both sides, the matter is referred to the Tamil Nadu Mediation and Conciliation Centre, attached to this Court.

9. Both the parties shall appear before the Tamil Nadu Mediation and Conciliation Centre, attached to this Court, on 27.03.2017.

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sd/.S.V.J
21.03.2017

//Certified to be a true copy//

Dated this the day of 2017.

R.s/07.04.2017

COURT OFFICER

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