



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Seventeenth day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice M.M.SUNDRESH
and

The Hon`ble Mr.Justice N.SATHISH KUMAR

CMP(MD) Nos.6844 & 4697 of 2017

IN

AS(MD) No.67 of 2017

V.SEENIVASAN

... PETITIONER/1st RESPONDENT/1st RESPONDENT
IN CMP(MD)No.6844/17 IN AS(MD)No.67/17

SHREE SIDHART INDANE GAS SERVICES,
REP.BY IT PROPRIETRIX,
A.SEETHALAKSHMI

... PETITIONER/ APPELLANT
IN CMP(MD)No.4697/17 IN AS(MD)No.67/17

Vs

1 SHREE SIDDARTH INDANE GASE SERVICE,
REP. BY THE PROPRIETOR,
A.SEETHALAKSHMI

... RESPONDENT/PETITIONER/APPELLANT

2 THE CITY UNION BANK
REP. THRO. ITS BRANCH MANAGER,
794, MAIN ROAD, NEAR SATHYABAMA THEATRE,
KOVILPATTI, THOOTHUKUDI DISTRICT .

... 2nd RESPONDENT/2nd RESPONDENT/2nd RESPONDENT
IN CMP(MD)No.6844/17 IN AS(MD)No.67/17

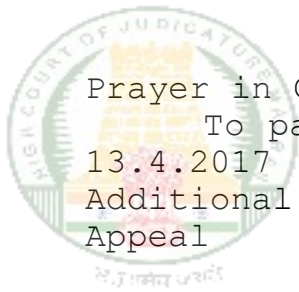
1 V.SEENIVASAN

2 THE CITY UNION BANK
REP.THROUGH ITS BRANCH MANAGER,
794, MAIN ROAD,
NEAR SATHYABAMA THEATRE,
KOVILPATTI, THOOTHUKUDI DISTRICT

... RESPONDENTS / RESPONDENTS
IN CMP(MD)No.4697/17 IN AS (MD)No.67/17

IN CMP(MD)No.6844/17 IN AS(MD)No.67/17

Petition praying that in the circumstances stated therein
and in the affidavit filed therewith the High Court will be pleased
to vacate stay granted on 11.7.2017 in CMP(MD) No.4697/2017 in AS MD
No.67/2017 pending on the file of this Honourable Court and thus
render justice.



Prayer in CMP(MD). 4697/ 2017 :

To pass an order to stay of the execution of the decree dated 13.4.2017 passed in O.S.No.53 of 2015 by the Honourable II Additional District Judge, Thoothukudi pending disposal of this Appeal

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr. M.V.VENKATASESHAN, Advocate for the petitioner in CMP(MD)No.6844/17 IN AS(MD)No.67/17 and Respondent 1 in CMP(MD)No.4697/17 IN AS(MD)No.67/17 and of Mr.BABU RAJENDRAN , Advocate for R1 IN CMP(MD)No.6844/17 IN AS(MD)No.67/17 & Petitioner in CMP(MD)No.4697/17 IN AS(MD)No.67/17 on behalf of the Respondent, the court made the following order:-

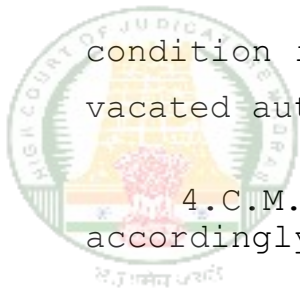
[Order of the Court was made by M.M.SUNDRESH, J.]

The appellant is the 1st defendant in the suit. The suit was filed for recovery of money. The 1st respondent/plaintiff being the guarantor said to have paid the money to the bank. Thereafter, the same was sought to be recovered from the appellant, who was admittedly the principal borrower.

2. The case of the appellant is that the money has already been paid by the appellant to the 1st respondent as seen from the bank transaction. That is the reason why the amount has been discharged by the 1st respondent. The case of the 1st respondent/plaintiff is that the money has been paid for some other transaction.

3.The issue was sought to be canvassed has to be decided only at the time of final hearing of the appeal. Admittedly, as of now, a decree is standing against the appellant.

3.In such view of the matter, the interim stay already granted is made absolute on condition that the appellant shall deposit a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) to the credit of O.S.No.53 of 2015 on the file of II Additional District Judge, Thoothukudi within a period of three months from the date of receipt of copy of this order. It is made clear that if the



condition is not complied with, the interim stay granted shall stand vacated automatically without any further reference to this Court.

4.C.M.P.(MD) Nos.4697 and 6844 of 2017 stand ordered accordingly.

4.Post the main Appeal Suit for final hearing on 25.10.2017. In the meanwhile, the Registry is directed to make the pleadings ready.

sd/-
17/08/2017

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE II ADDITIONAL DISTRICT JUDGE,
THOOTHUKUDI

COPY TO:

THE SECTION OFFICER,
JUDICIAL SECTION, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to MR. M.V.VENKATASESHAN Advocate SR.No.28824

+1 CC TO Mr.BABU RAJENDRAN , ADVOCATE, SR.No.28808

JAM/23.08.17/RR-BS/SAR 1 / 3P-5C

ORDER
IN
CMP(MD) Nos.6844 & 4697 of 2017
IN
AS(MD) No.67 of 2017
Date :17/08/2017