

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2018

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

C.S. No. 981 of 2001

M/s.Integrated Finance Co. Ltd.

.....Plaintiff

Vs

1. M/s.Lok Housing and
Constructions Limited

2. Prakash Industries Limited

..... Defendants

Prayer: Plaint filed under Order VII Rule 1 of C.P.C. Read with Order IV Rule 1 of High Court Original Side Rules for a decree and judgment against the defendants for a sum of Rs.49,62,696.67/- along with interest thereon at the rate of 30% on a sum of Rs.21,33,125/- from the date of plaint till the realization and costs.

For Plaintiff : Mr.Najeeb Usman Khan

For Defendants: set exparte on 20.09.2018

J U D G M E N T

The plaint is filed for a judgment and decree for a sum of Rs.49,62,696.67/- along with interest thereon at the rate of 30 per cent on a sum of Rs.21,33,125/- from the date of plaint till the realization thereof and costs.

2. Suit summons has been issued to the defendants that has been duly served. However, there has been no appearance and the defendant was thus set ex parte on 20.09.2018.

3. The matter was thereafter referred to recording of ex parte evidence before the learned Additional Master II and ex parte evidence has been closed on 28.09.2018. The matter has been thus placed before the Court for hearing.

4. The plaintiff is in the business of Hire Purchase and Lease financing and had entered into a Hire Purchase agreement dated 28.03.1994 for the purchase of Plant and Machinery. An amount of Rs.50,08,230/- was paid by the plaintiff under cheque No.851008 dated 30.03.1994 in favour of the 2nd defendant for purchase of machinery.

5. The Hire Purchase agreement was for total value of Rs.75,49,920/- inclusive of finance charges repayable in twenty quarterly installments of Rs.3,77,496/- each. The first of the installments was payable on 28.03.1994, the last being payable on 12.09.1998.

6. A tripartite agreement dated 28.03.1994 was entered into between the plaintiff and defendants 1 & 2 whereunder the first defendant was permitted to lease out the machinery hired to the second defendant.

7. It appears that the repayments were not forthcoming on a regular basis and the last of the installments paid by the first defendant was on 18.04.1998, representing a portion of the 15th installment that was in fact payable on 01.09.1997.

Since there was no further action taken to settle the outstanding dues despite several reminders, the plaintiff has come forth with the present suit.

8. A proof affidavit has been filed by P1 and the originals of the documents being invoice dated 17.03.1995, hire purchase agreement dated 28.03.1994, tripartite agreement dated 28.03.1994, letters exchanged between the plaintiff and the first defendant dated 06.08.1996 and 18.09.1996 and statement of accounts for the period for 28.03.1994 to 01.12.1998 have been marked by the plaintiff as Exhibits 2 to 7. A perusal of letter dated 18.09.1996 (Ex.P.6) would show that the liability of 1st defendant is, in fact, admitted by it.

9. There being no appearance by the defendants despite service of suit summons this till date and in the light of the evidence marked, as noted above, the suit is decreed as prayed for, for a principal sum of Rs.21,33,125/-. The amount shall carry interest at the rate of 6 per cent from date of plaint till date of realization. Decreed accordingly.

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14.11.2018

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Dr. ANITA SUMANTH, J.

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