

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2018

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

C.S.No.378 of 1998

M/s.Apple Credit Corporation Limited
Represented by its Associate Vice-President
& Authorised Signatory
Mr.K.Suryanarayanan.

... Plaintiff

Vs.

1.M/s.Alsa Constructions and Housing Ltd.,
Represented by its Director

2.M/s.Alsa Marine and Harvests Ltd
Represented by its Director

3.Mr.Altaf Pasha

4.Mr.Salim Pasha

5.The Official Liquidator,
High Court, Madras.
(5th defendant impleaded as per order
dated 22.03.2010 in A.No.1575 of 2010
& Order dated 12.02.2013 in A.No.645/13)

...Defendants

This Civil Suit is preferred, under Order VII Rule 1 CPC and under Order IV Rule 1 of O.S.Rules, praying to grant a judgment and decree:

a) jointly and severally against the 1st defendant hirer and the 3rd defendant personal guarantor, for the sum of Rs.75,69,733.54 due and recoverable under Hire Purchase Agreement No.CGH-023-027 dated 29.10.1994, together with further interest on the balance due under such

agreement in the sum of Rs.68,46,072.70 at the contract rate of 36% per annum from the date of institution of this suit till realisation, and costs;

b) jointly and severally against the 1st defendant hirer, 2nd defendant co-hirer and the 3rd defendant personal guarantor, for the sum of Rs.1,67,998.19 due and recoverable under Hire Purchase Agreement No.CGH-032 dated 18.11.1994, together with further interest on the balance due under such agreement in the sum of Rs.1,58,340.00 at the contract rate of 36% per annum from the date of institution of this suit till realisation, and costs;

c) jointly and severally against the 1st defendant hirer, 2nd defendant co-hirer and the 3rd defendant personal guarantor, for the sum of Rs.2,14,712.24 due and recoverable under Hire Purchase Agreement No.CGH-037 dated 06.12.1994, together with further interest on the balance due under such agreement in the sum of Rs.2,00,960.20 at the contract rate of 36% per annum from the date of institution of this suit till realisation, and costs;

d) jointly and severally against the 1st defendant hirer, 3rd defendant personal guarantor and the 4th defendant personal guarantor, for the sum of Rs.1,31,532.82 due and recoverable under Hire Purchase Agreement No.CGH-050 dated 24.01.1995, together with further interest on the balance due under such agreement in the sum of Rs.99,171.60 at the contract rate of 36% per annum from the date of institution of this suit till realisation, and costs;

e) jointly and severally against the 1st defendant hirer, 2nd defendant co-hirer and the 3rd defendant personal guarantor, for the sum of Rs.15,02,288.13 due and recoverable under Hire Purchase Agreement No.CGH-066-a dated 31.03.1995, together with further interest on the balance due under such agreement in the sum of Rs.12,07,375.00 at the contract rate of 36% per annum from the date of institution of this suit till realisation, and costs;

f) jointly and severally against the 1st defendant hirer, 2nd defendant co-hirer and the 3rd defendant personal guarantor, for the sum of Rs.6,86,811.39 due and recoverable under Hire Purchase Agreement No.CGH-066-b dated 31.03.1995, together with further interest on the balance due under such agreement in the sum of Rs.5,50,563.00 at the contract rate of 36% per annum from the date of institution of this suit till realisation, and costs;

For Plaintiff : No Appearance

For Defendants : No Appearance for D1 to D4
Ms.J.Madhuri for D5

JUDGMENT

Ms.J.Madhuri, learned counsel for Official Liquidator attached to this Court (defendant No.5), who has stepped into the shoes of defendant No.1 Company, is before this Commercial Division.

2. Read this in conjunction with and in continuation of earlier proceedings of this Commercial Division dated 08.02.2018 and 28.02.2018. I deem it appropriate to extract both the aforesaid proceedings of this Commercial Division.

3. Proceedings of this Commercial Division dated 08.02.2018,

reads as follows:

“Mr.V.V.Sairam, counsel on record for plaintiff submits that there is some difficulty in getting further instructions from his client.

2. Mr.V.V.Sairam, requests a fortnight's time for writing to his client and he submits that he will report no instructions, if there is no change in the situation. Obviously, if he gets instructions, he will proceed with the matter.

3. It is submitted that Ms.J.Madurai, learned counsel has entered appearance on behalf of the Official Liquidator, i.e., first defendant, which I am informed has been ordered to be wound up.

4. List the matter on 28.02.2018.”

4. Proceedings of this Commercial Division dated 28.02.2018, reads as follows:

“Ms.J.Madhurai, learned counsel for Official Liquidator (Defendant No.1) and Mr.Jussain Afroze, learned counsel representing Zafferullah Khan are before this Commercial Division.

There is no representation for plaintiff.

List the matter under the caption 'For Dismissal' on 02.03.2018.”

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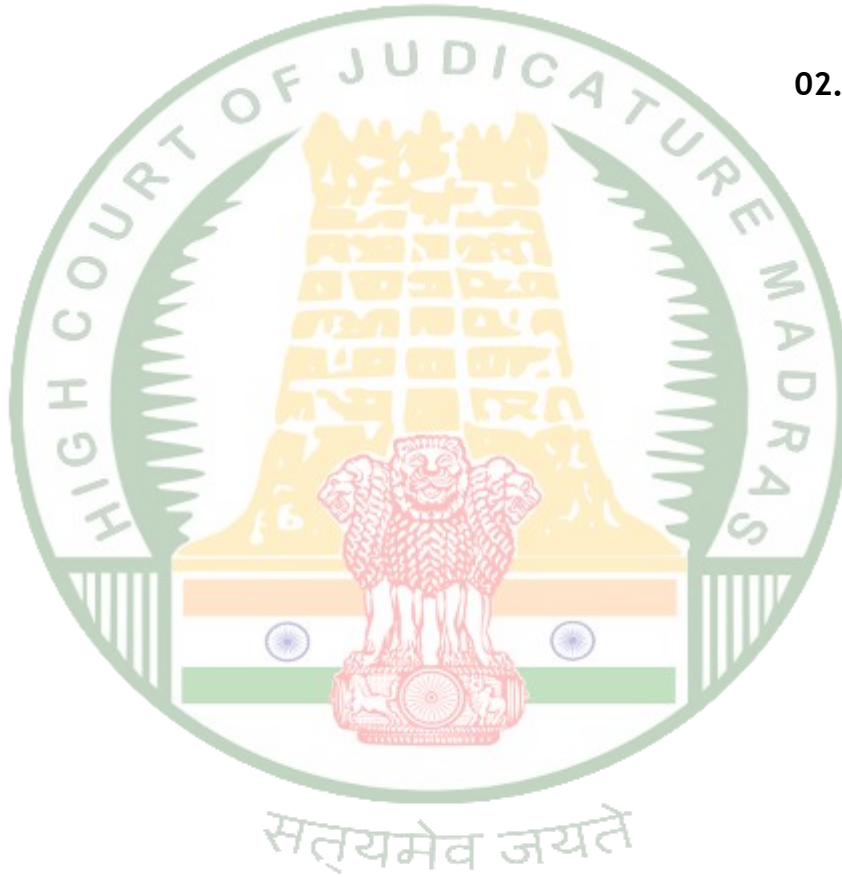
5. Today, pursuant to my earlier direction dated 28.02.2018, this suit has been listed under the caption 'For dismissal'. The position is no different today. There is no representation for plaintiff.

6. In the light of the narrative supra, I have no option other than dismissing the suit for default/non prosecution.

7. This suit is dismissed for default/non prosecution. No costs.

02.03.2018

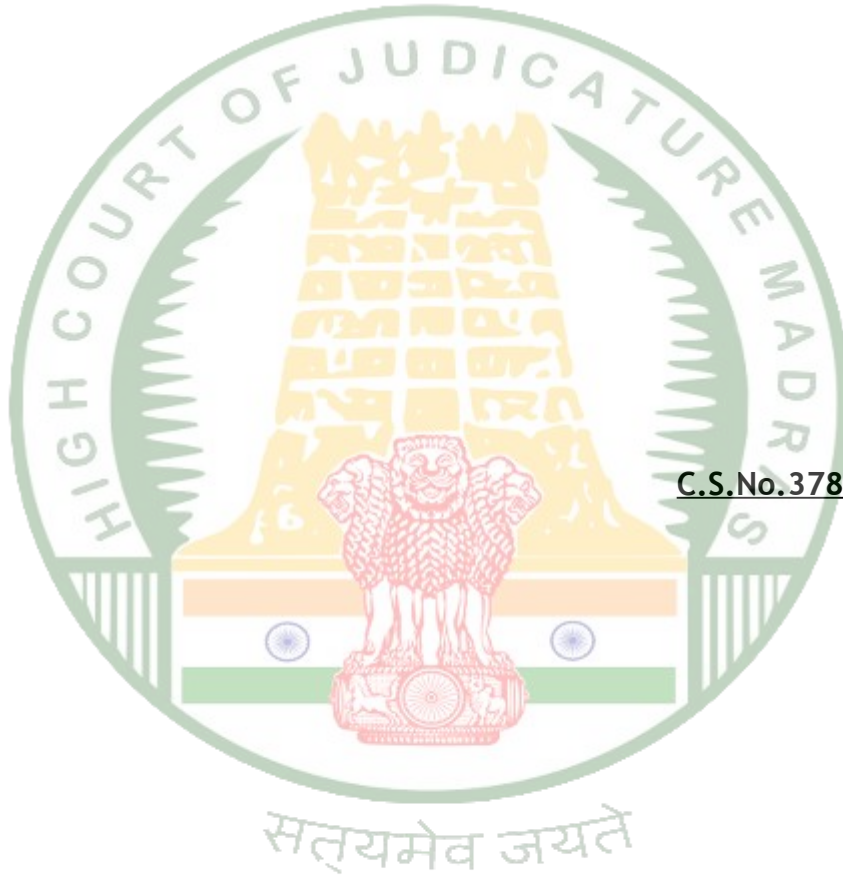
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M.SUNDAR.J.,

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