

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2018

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.41 of 2000

M/s.Dugar Housing Limited,
Represented by its Chairman,
'Dugar Towers', 123, Marshalls Road,
Egmore, Chennai - 600 008.

[Amended as per order dated 22.01.2018
in Application No.433 of 2018]

... Plaintiff

Vs

1.National Stock Exchange of India Ltd.,
Mahindra Towers,
'A' Wing, First Floor, RBC,
Worli, Mumbai - 400 018.

2.National Stock Exchange of India Ltd.,
No.5, Buzullah Road,
T.Nagar, Chennai - 600 017.

3.National Securities Clearing Corporation Ltd.,
Trade World, Senapati Bapat Marg,
Lower Parel, Mumbai - 400 136.

4.Securities & Exchange Board of India
'Mittal Court', 'B' Wing,
224, Nariman Point,
Mumbai - 400 021.

5.Oriental Insurance Co. Ltd.,
 'Oriental House'
 7th Floor, No.7, Jamshedji Tata Road,
 Mumbai - 400 020.

... Defendants

Plaint filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 C.P.C. praying to pass a judgment and decree:

(a) for a declaration that Circular No.71, 96 and 106 put forward by the defendants 1 to 3 as a ground for wrongfully withholding the interest free deposit amount of Rs.61 lakhs of the plaintiff, morefully described in Schedule 'A' hereunder by not adjusting the dues claimed by the third defendant out of the Rs.61 lakhs deposit ('A' Schedule) in September 1997 itself and, at the same time, charging interest at 4.5% per month, i.e., 54% per annum for the amounts claimed by the third defendant, are all illegal and not enforceable in law and not valid and binding upon the plaintiff;

(b) for a declaration that the unilateral adjustments made by the defendants 1 to 3 out of the plaintiff's money of Rs.61 lakhs, morefully described in schedule 'A' hereunder calling it as interest at 54% per annum for the claim made by the third defendant, is illegal and not valid and binding upon the plaintiff.

(c) directing the defendants to pay the plaintiff a sum of Rs.61,69,000/- together with subsequent interest at 24% per annum from the date of plaint till date of realization;

(d) for a mandatory injunction directing the defendants

to return the security scrips more fully described in the schedule 'B' hereunder or pay their value of Rs.3 lakhs to the plaintiff within a time to be fixed by this Hon'ble Court together with subsequent interest at 24% per annum from the date of plaint till date of realization;

(e) directing the defendants to pay the cost of the suit.

For Plaintiff : Mr.C.Jagadish

For defendants : Mr.Thiruvenkadasamy for D1 to D3

Mr.M.S.Murali
for R & P Partners for D4

Mr.R.Sivakumar for D5

JUDGMENT

The matter was sent to mediation and the matter has been compromised before the Mediation center. The parties have filed a Joint Memo of Compromise praying for a decree in terms of compromise.

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2. In view of the compromise arrived at between the parties, the suit is decreed in terms of the compromise. The compromise memo also provides that the parties shall bear their own costs.

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dsa

Index : No

Internet : Yes

Non-speaking Order

List of the witnesses examined on the side of the plaintiff:

PW1 - Ramesh Dugar

List of Exhibits marked on the side of the plaintiff:

Sl. No.	Exhibits	Description	Dated
1	Ex.P1	Certified true copy of extract of minutes of the meeting of the Board of Directors.	06.01.2012
2	Ex.P2	Xerox copy of letter sent by the 4 th defendant to the plaintiff.	12.01.1996
3	Ex.P3	Xerox copy of fee and deposit structure (Annexure B)	--
4	Ex.P4	Xerox copy of letter sent by the 1 st defendant to the plaintiff.	07.03.1996

Sl. No.	Exhibits	Description	Dated
5	Ex.P5	Xerox copy of the bank guarantee	02.05.1997
6	Ex.P6	Xerox copy of letter sent by the plaintiff to the 1 st defendant.	24.01.1998
7	Ex.P7	Xerox copy of letter sent by the plaintiff to the 4 th defendant.	24.01.1998
8	Ex.P8	Xerox copy of letter sent by the 3 rd defendant to the plaintiff.	10.03.1998
9	Ex.P9	Xerox copy of letter sent by the 1 st defendant to the plaintiff.	11.03.1998
10	Ex.P10	Xerox copy of letter sent by the 1 st defendant to the plaintiff.	12.03.1998
11	Ex.P11	Xerox copy of letter sent by the 1 st defendant to the plaintiff.	20.03.1998
12	Ex.P12	Xerox copy of letter sent by the plaintiff to the 1 st defendant.	08.05.1998
13	Ex.P13	Xerox copy of letter sent by the 3 rd defendant to the plaintiff.	09.05.1998
14	Ex.P14	Xerox copy of letter sent by the plaintiff to the 3 rd defendant.	15.05.1998
15	Ex.P15	Xerox copy of letter sent by the plaintiff to the 3 rd defendant.	22.05.1998
16	Ex.P16	Xerox copy of letter sent by the 3 rd defendant to the plaintiff.	25.05.1998
17	Ex.P17	Xerox copy of debit note sent by 3 rd defendant to the plaintiff.	19.06.1998
18	Ex.P18	Xerox copy of letter sent by the 3 rd defendant to the plaintiff.	13.08.1998
19	Ex.P19	Xerox copy of letter sent by the plaintiff to the 3 rd defendant.	18.08.1998
20	Ex.P20	Xerox copy of letter sent by the plaintiff to the 1 st defendant.	02.09.1998

Sl. No.	Exhibits	Description	Dated
21	Ex.P21	Membership department circular No.71 of the 1 st defendant.	14.08.1997
22	Ex.P22	Circular No.86 of the 1 st defendant.	24.11.1997
23	Ex.P23	Circular No.87 of the 1 st defendant.	24.11.1997
24	Ex.P24	Circular No.96 of the 1 st defendant.	24.03.1998
25	Ex.P25	Circular No.106 of the 1 st defendant.	24.07.1998
26	Ex.P26	Xerox copy of the order in W.P.No.14218/1998, High Court, Madras.	24.08.1999
27	Ex.P27	Xerox copy of legal notice issued by the plaintiff's counsel to the defendants 1 and 3.	07.09.1999
28	Ex.P28	Xerox copy of letter sent by the 1 st defendant to the plaintiff.	09.12.1999
29	Ex.P29	Xerox copy of the notice published in the New Indian Express, Chennai.	10.12.1999
30	Ex.P30	Xerox copy of fresh certificate of incorporation consequent on change of name.	31.12.1996

List of the witnesses examined on the side of the defendants:

DW1 - Sunitha Anand

List of Exhibits marked on the side of the defendants:

Sl. No.	Exhibits	Description	Dated
1	Ex.D1	Xerox copy of the letter sent by the 5 th defendant to the plaintiff.	04.07.2003
2	Ex.D2	Xerox copy of the letter sent by the plaintiff to the 5 th defendant.	20.08.2003
3	Ex.D3	Authorisation letter given by the 1 st	30.07.2012

Sl. No.	Exhibits	Description	Dated
		defendant.	
4	Ex.D4	Authorisation letter given by the 3 rd defendant.	30.07.2012
5	Ex.D5	Trading membership undertaking.	24.11.1995
6	Ex.D6	Bye laws of the 1 st defendant.	June 2000
7	Ex.D7	Rules of the 1 st defendant.	December 1998
8	Ex.D8	Bye laws of the 3 rd defendant.	May 1999
9	Ex.D9	Bye laws of the 1 st defendant.	--
10	Ex.D10	Rules of the 1 st defendant.	--
11	Ex.D11	Bye laws of the 3 rd defendant.	--
12	Ex.D12	Circular No.71 of the 1 st defendant.	14.08.1997
13	Ex.D13	Circular No.96 of the 1 st defendant.	24.03.1998
14	Ex.D14	Circular No.106 of the 1 st defendant.	24.07.1998
15	Ex.D15	Xerox copy of letter sent by 4 th defendant to the 1 st defendant.	25.09.1998
16	Ex.D16 (series)	Letters sent by the plaintiff to the 1 st defendant. (2 Nos.)	01.09.1998 & 24.01.1998
17	Ex.D17	Xerox copy of letter sent by the 1 st defendant to the plaintiff.	20.03.1998
18	Ex.D18 (series)	Xerox copy of the letter sent by the plaintiff to the 3 rd defendant.	24.01.1998
19	Ex.D19	Xerox copy of letter sent by the 1 st defendant to the plaintiff.	12.03.1998
20	Ex.D20 (series)	Circular Nos.135 and 64.	19.05.1997
21	Ex.D21	Affidavit -subsequent events.	29.03.2012
22	Ex.D22	Xerox copy of letter sent by the 4 th defendant to the plaintiff.	23.11.2005

Sl. No.	Exhibits	Description	Dated
23	Ex.D23	Xerox copy of letter sent by the 1 st defendant to the plaintiff.	15.03.2005
24	Ex.D24	Order issued by the 4 th defendant.	29.10.2009
25	Ex.D25	Xerox copy of letter sent by the 1 st defendant to the plaintiff.	03.11.2009
26	Ex.D26	Courier receipt.	05.11.2009
27	Ex.D27	Xerox copy of letter sent by the 1 st defendant to the plaintiff.	20.11.2009
28	Ex.D28	Copy of the email from the plaintiff's office.	--
29	Ex.D29	Circular No.78.	30.09.1997
30	Ex.D30	Circular No.86 and 87.	24.11.1997
31	Ex.D31	Circular No.123.	21.01.1999
32	Ex.D32	Xerox copy of letter sent by 4 th defendant to the plaintiff.	07.02.2011

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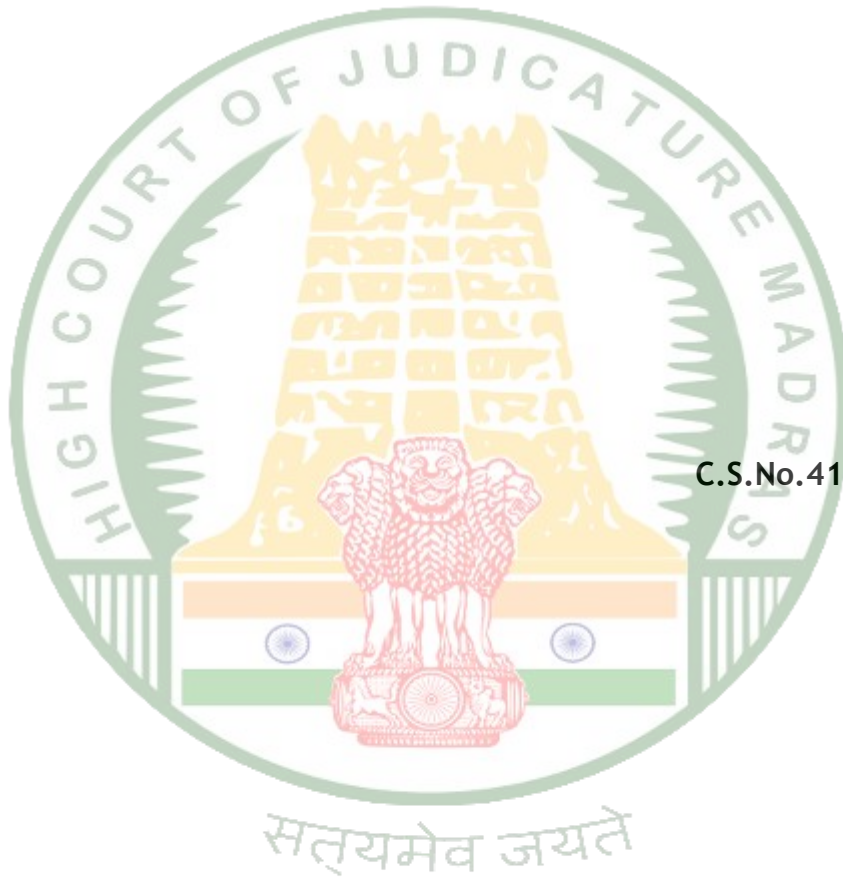
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R.SUBRAMANIAN, J.

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