

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2018

CORAM

THE HONOURABLE MR. **JUSTICE M.M.SUNDRESH**

**Original Petition No.5 of 2017  
and Application No.54 of 2017**

1.T.N.Gopalakrishnan  
2.Pramila

.. Petitioners

Vs.

M/s.Magma Fincorp Ltd.,  
Having Office at Navin's Presidium,  
7A, B Block, New No.17-19,  
Old No.103, Nelson Manickam Road,  
Chennai - 29.

.. Respondent

Petition filed under Section 34 of the Arbitration and Conciliation  
Act, 1996 to set aside the Award dated 22.03.2016 in Case  
Ref.No.MAGMA/SJ/826 of 2016.

For Petitioners : Mr.Sharath P.Nair

For Respondent : Mr.S.Bruno Cruz

**ORDER**

By consent, the original petition is taken up for final disposal.

2. When the matter is taken up for hearing today, both the learned counsel for the parties would submit that the dispute has been resolved through compromise. It is further submitted that though the original memo of compromise dated 20.03.2017 has been filed before the Registry, it has not been put up before this Court. However, it is submitted that based upon the copy of the same and recording it, the original petition may be disposed of. Accordingly, the copy of the memo of compromise dated 20.03.2017 is also furnished before this Court. The memo of compromise reads as under:

*1. Both the parties agreed to settle fully and finally the dispute regarding the Agreement No.Ho/G/0028/10/000083 (PG/0028/V/10/000082) dated 05.04.2012 and all the other cases which eventuated as a result of the same.*

*2. It is submitted that the First Party has initiated arbitration proceedings before the Hon'ble High Court of Madras in O.P.No.5 of 2017 and the Second Party filed E.P. proceedings before the Hon'ble IX City Civil @ Madras*

being E.P.No.2377/2016 pending on the file of the Hon'ble IX Assistant City Civil Court, Chennai and also Cheque Bounce against First Party before XX Metropolitan Magistrate, Calcutta.

3.It is submitted that the parties hereto have agreed to arrive at an amicable settlement of all disputes for the amount of Rs.2,80,000/- towards full and final settlement and the First Party agreed to pay the above said amount in the manner stated hereinafter.

*Schedule of Payment*

1. On 07.03.2017 Rs.20,000/- paid through cheque vide cheque No.000045, City Union Bank Ltd.,

2.Rs.1,30,000/- will be paid on or before 20.03.2017

3.Rs.1,30,000/- will be paid on or before 25.03.2017.

4.M/s.Magma Fincorp Ltd., (the Second Party) hereby declares that after the realization of the above mentioned schedule of payment to the Second Party by the First Party, the Second Party do hereby agree to issue 'No due certificate'(NOC) to the First Party and CIBIL will be reversed as per the process. Further the Second Party submits that they will not use the cheques deposited by the First Party with the Second Party by any means with respect to the loan agreement in issue herein.

5. The Second Party hereby agrees to withdraw all proceedings (civil or criminal) which has been instituted by them or their agents and/or servants of the Second Party and/or their predecessor against the First Party. Similarly, the Second Party shall be entitled to execute the award as mentioned in Schedule of payment against the First Party, in the event of default in payment of any one instalment or any part thereof as stipulated in schedule of payment hereinabove, after giving credit to payments made under this settlement. The Second Party would also be at liberty to take further appropriate and proper steps before the Appropriate forum/Court for obtaining any relief/reliefs as it may deem fit and proper against the First Party in case of any default as mentioned in schedule of payment.

6. The First Party hereby declares that no complaint has been made before any authority and or any proceedings whether civil or criminal has been instituted by them against the Second Party or against their men, agents and/or servants. It is also further agreed by the party to withdraw any such complaints or proceedings, if discovered, immediately or in future. It is also submitted that the First Party shall be at liberty to initiate appropriate proceedings against the Second Party in the event of default or breach of conditions mentioned supra and the above conditions relating to CIBIL and NOC are to be complied by the Second Party.



*7.Both the parties agree that there shall be an Original Copy of this memorandum of compromise that shall be filed before the Hon'ble Court concerned and a counter-part of the same to each parties.*

*8.Both the parties shall bear their own costs.*

*9.Both the parties agree that the cases may be disposed in terms of the above memorandum of compromise.*

3.The memo of compromise dated 20.03.2017 is taken on record and the original petition stands disposed of in terms of the memo of compromise. The memo of compromise dated 20.03.2017 shall form part of the order. No costs. Consequently, connected application is closed.

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04.06.2018

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**M.M.SUNDRESH,J.**

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**O.P.No.5 of 2017**

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**04.06.2018**