

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 20TH DAY OF MARCH 2018

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

A.No.2444 of 2018

in

A.No.1470 of 2017

in

OP.No.141 of 2017

IN THE MATTER OF DISPUTES BETWEEN
K.VASU

AND

M/S.UNITED PLANTATION LIMITED

AND

IN THE MATTER OF THE ARBITRATION
AND CONCILIATION ACT, 1996

AND

IN THE MATTER OF THE ARBITRAL
AWARD DATED 10.8.2016

M/s United Plantation Limited,
A Company incorporated under
The Companies Act, 1956,
Having its Administrative Office at
No.78, Cheran Towers,
Government Arts College Road,
Coimbatore 641 018

..Petitioner

Vs.

K.Vasu
Proprietor,
M/s.Harihara Timber and Fire Wood
Depot, Wellington Bazaar,
Wellington, Nilgiris.

..Respondent

A.No.1470 of 2017 in OP.141 of 2017 :

M/s United Plantation Limited,
 A Company incorporated under
 The Companies Act, 1956,
 Having its Administrative Office at
 No.78, Cheran Towers,
 Government Arts College Road,
 Coimbatore 641 018

..Applicant/Petitioner

Vs.

K.Vasu
 Proprietor,
 M/s.Harihara Timber and Fire Wood
 Depot, Wellington Bazaar,
 Wellington, Nilgiris.

..Respondent/Respondent

A.No.2444 of 2018 in OP.141 of 2017 :

M/s United Plantation Limited,
 A Company incorporated under
 The Companies Act, 1956,
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..Applicant/Petitioner

Vs.

K.Vasu
 Proprietor,
 M/s.Harihara Timber and Fire Wood
 Depot, Wellington Bazaar,
 Wellington, Nilgiris.

..Respondent/Respondent

Application praying that this Hon'ble Court be pleased to modify the order dated 18/12/2017 passed in A.1470 of 2017 in OP.141 of 2017 and consequently permit the Applicant to deposit the sum of Rs.22,50,000/- to the credit of the present OP.141 of 2017 on the file this Hon'ble Court.

This application coming on this day before this court for hearing the court made the following order:

Seeking to modify the order dated 18.12.2017 passed in A.No.1470 of 2017 in O.P.No.141 of 2017, the present application has been filed.

2.Learned counsel appearing for the applicant would submit that as per Order 41 Rule 1(3) of Code of Civil Procedure, what is contemplated is deposit of money. Therefore, the order passed requires modification. Learned counsel appearing for the respondent would submit that the amount directed to be paid was only 50% of the money admittedly received by the applicant.

3.Order 41 Rule 1 (3) of Code of Civil Procedure merely speaks about the content of the memorandum. The code of procedure nowhere says that in all appeals filed against the money decree, the Courts are not empowered to pass order, directing the appellant to make payment in favour of the respondent/plaintiff. Such a construction, as submitted by the learned counsel for the applicant, would lead to absurdity. Pursuant to the amendment made to the Arbitration and Conciliation Act, 1996, grant of stay of an award in the petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 is not automatic. This Court has passed an order by taking into consideration the interest of both sides. Admittedly, the award was passed in favour of the respondent. What has been ordered to be paid is only part of the amount. Whether it is a case of deposit or payment, the difference is very little. There is no material to hold that the respondent, in the event of original petition being allowed, will not pay the amount back. Learned counsel appearing for the

respondent also undertakes that in such an eventuality, the respondent would certainly repay the amount with interest. The said statement also stands recorded.

4. In such view of the matter, the application stands dismissed. However, the applicant is given three weeks' time from today to comply with the order dated 18.12.2017.

Sd/- M.M.S.J.

20.03.2018

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//Certified to be true copy//
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Dated at Madras this the day of 2017.

TR : 22.03.2018 (IT)

COURT OFFICER (O.S.)

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