

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 19TH DAY OF NOVEMBER 2018

THE HON'BLE MR.K.KALYANASUNDARAM

A.No.7024 & 7025 of 2018

in

E.P.No.70 of 2015

E.P.NO.70 OF 2015:

The Tamil Nadu Water Supply &
Drainage Board,rep.by its Spl.Chief Engineer
Veeranam Project
Chepauk
Chennai -5.

...D.H./Plaintiff

-Vs-

1.M/s.Sathyanarayana Brothers Private Ltd.,
25, Edward Elliots Road
Chennai -4.

2.M/s.Essar Shipping Ltd.,
26, Haddows Road
Chennai 600 006

(2nd Defendant name amended as Messrs
Essar Shipping Limited
as per the order of Master Court
dated 07.08.1986 made in Appln.No.3459/86)
(sd.) ...counsel for plttff.11/8/86
(sd.) ...Asst.Regr. (OS) 13/8/86

...J.D./Defendant

A.No.7024 & 7025 of 2018:

1.M/s.Essar Shipping Ltd.,
No.26, Haddows Road
Chennai 600 006

Present Address:

Door No.56, C.P.Ramasamy Road
Alwarpet
Chennai 600 018.

...Applicant/Judgment Debtor-2

-Vs-

1.The Tamil Nadu Water Supply & Drainage Board
Rep.by its Spl.Chief Engineer
Veeranam Project
Chepauk, Chennai -5.

2.M/s.Sathyannarayana Brothers Private Ltd.
No.25 Edward Elliots Road
Chennai 600 004.

...Respondents/Decree Holder
(Both the A.Nos.7024 & 7025 of 2018)

Application praying that this Hon'ble Court be
pleased to set aside the order dated 14.08.2018 passed by
the Learned Master, High Court, Madras in E.P.No.70 of 2015
permitting the Respondent/Decree Holder to let in Evidence.

A.No.7025 of 2018:

Application praying that this Hon'ble Court be
pleased to set aside the order dated 14.08.2018 passed by

the Learned Master, High Court, Madras in E.P.No.70 of 2015 permitting the Respondent/Decree Holder to adduce in Evidence.

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

The learned Master by order dated 14.08.2018, permitted the decree holder to give an evidence. Challenging the order, the judgment debtor, has preferred this application.

2. It is contended by the learned counsel for the applicant that the execution petition itself is not maintainable as it was filed beyond the period of limitation and that in the execution proceedings, the party cannot be permitted to give oral evidence.

3. Per contra, the learned counsel for the decree holder would contend that the appeal preferred by the defendant/applicant came to be dismissed for non prosecution in the year 2001 and eventhough the execution petition was filed in time in the year 2003, but due to non-availability of some materials, it could not be

numbered and delay in representing the execution petition was condoned.

4. Though the learned counsel for the applicant would vehemently contend that in the execution proceedings, the parties cannot be permitted to give evidence, in support of the contention, no material has been produced. Further admittedly the Execution Petition is pending for the passed 3 years and the issue of limitation does not arise for consideration in this application. Hence, I find no merit in the application. Accordingly, the Application is dismissed.

Sd./- M.K.K.S.J.

सत्यमेव जयते 19.11.2018

//Certified to be a true copy//

Dated this the WEB COPY day of 2018.

DL/04.12.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.