

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 11TH DAY OF FEBRUARY 2019

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

A.NO.163 of 2018

in

O.P.No.737 of 2017

In the matter of Arbitration
and Conciliation Act, 1996
and

In the matter of Dispute
between Kunal Jain & 3 others
with Cholamandalam Investment
and Finance Company Limited
arising under Loan Agreement
dated 30th October, 2014.

1. Mr.Kunal Jain,
Son of Mr.Suresh Jain,
Residing at C-1402, Ansals Palam Vihar,
Gurgaon - 122 017.

2. Mr.Suresh Jain,
Son of Late Mr.IML Jain
Residing at C-1402, Ansals Palam Vihar,
Gurgaon - 122 017.

3. Mrs.Neelul Jain
Wife of Mr.Suresh Jain
Residing at C-1402, Ansals Palam Vihar,
Gurgaon - 122 017.

4. Mrs.Shilpi Jain,
Wife of Mr.Kunal Jain
Residing at C-1402, Ansals Palam Vihar,
Gurgaon - 122 017.

..Applicants/Petitioners

-Vs-

Cholamandalam Investment and Finance Company Ltd.,
A Company registered under the provisions of the
Companies Act, 1956, having its registered office at
Dare House No.2, NSC Bose Road,
Parrys, Chennai - 600 001. ..Respondent/Respondent

Application praying that this Hon'ble Court be
pleased

i. that the Ld. Arbitrator by handing over the
original records of the Arbitration to the Respondent, has
violated the sanctity of the arbitration records and has
demonstrated his complete bias in favour of the Respondent.

ii. that the Ld. Arbitrator is relying on the
Respondent to defend his tenure, when he has not even been
made a party in the present O.P. and is therefore acting at
the behest of the Respondent.

iii. that the Ld. Arbitrator, by his action of handing
over the original records of the Arbitration to the
Respondents, has identified himself with the respondents
and can no longer be considered as independent.

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

This application has been filed alleging that the sole
arbitrator already appointed has exceeded or violated the
sanctity of the arbitration records and therefore, taking
note of the same, suitable orders have to be passed.

2. Prior to this application, already the very same applicant filed application in O.A.No.863 of 2017 where, the sole arbitrator appointed by the respondent has already been restrained from proceeding with the arbitration proceedings.

3. Heard the learned counsel for the applicant as well as the learned counsel for the respondent.

4. Mrs.Gowri, learned counsel for the respondent submits that, the respondent company decided not to proceed with the arbitration proceedings and they infact given up to refer the matter to go with the arbitration proceedings, as already they have initiated SARFAESI proceedings which is pending before the DRT where, certain amounts have already been recovered from the applicants.

5. In view of the said categorical submission made by the respondent, this Court feel that, no further orders required to be passed in this application. Accordingly, this application can be closed.

6. However, the learned counsel for the applicants submits that certain counter claim also had been made by the applicant and in this regard, the liberty to proceed

against the respondent to recover the counter claim in accordance with the law can be protected.

7. The said liberty is always protected provided, if there is any acceptable counter claim.

Sd/.R.S.K.J.
11.02.2019

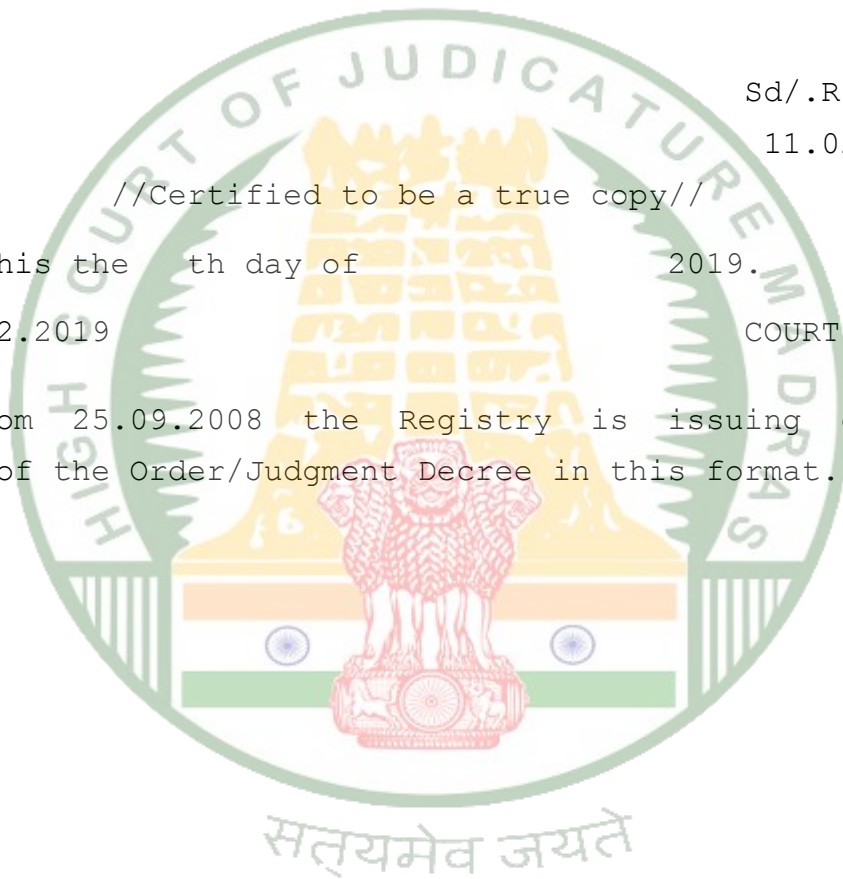
//Certified to be a true copy//

Dated this the th day of 2019.

DL/13.02.2019

COURT OFFICER

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



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