

A.Nos.5273 & 5274 of 2019
in
C.S.No.368 of 2019

KRISHNAN RAMASAMY, J.,

A.No.5273 of 2019 has been filed seeking for a direction to pass a judgment on admission to an extent of Rs.6,15,89,971/- as against the 1st respondent/defendant under order XII Rule 6 read with Order XIII A of Code of Civil Procedure.

2. The learned counsel for the applicant/plaintiff submitted that on 19.07.2019, the applicant has received a communication from the Forensic Auditors of the 1st respondent/defendant, confirming that as per the 1st respondent/ defendant's record, a sum of Rs.6,15,89,971/- is shown as payable to the applicant/plaintiff. Further, it is stated that in the said communication the Forensic Auditors have sought a confirmation of the same from the applicant/plaintiff. Further, the learned counsel submitted that the principal amount that has been claimed by the applicant in this suit is Rs.6,15,90,029/- as on 09.06.2019.

2.1 Therefore, the learned counsel for applicant/plaintiff submitted that the communication dated 19.07.2019, sent by the Forensic Auditors clearly shows the admission of liability on the part of the 1st respondent to the applicant. Further he stated that the balance suit claim is for the surcharge on late payment, as per the terms of the agreement. In view of the admission of principal portion to a extent of Rs.6,15,89,971/- the applicant submits that such admission being in writing, this Court may be pleased to pass a judgment on admission in accordance with the Order XII Rule 6 of the Code of Civil Procedure, 1908 (CPC).

3. On the other hand, the learned counsel for the 1st respondent/defendant has also admitted the fact that the principal amount is only Rs.6,15,89,971/-. He has also submitted that he has no objection to pass decree on this principal amount. Accordingly, the suit is decreed based on admission of the principal amount to the extent of a sum of Rs.6,15,89,971/-

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3.1 The counsel further submitted that since the Garnishee already withheld Rs.10,49,81,067/- as per the order of this Court dated 02.08.2019, the counsel appearing for the applicant also filed a separate application in A.No.5274 of 2019 to modify the order dated 20.06.2019 to the extent directing

the 2nd respondent/Garnishee to pay an amount of Rs.6,15,89,971/- directly to the applicant and to deposit the balance amount in terms of the order dated 20.06.2019 passed in A.No.4035 of 2019 to the credit of this suit.

4. The counsel appearing for the respondent/defendant also has no objection for such course of action as pleaded by the applicant. Accordingly, the order dated 20.06.2019 stands modified in the manner stated below:-

(i) Directing the Garnishee to draw a cheque for a sum of Rs.6,15,89,971/- to and in favor of the applicant.

(ii) Directing the Garnishee to deposit the balance amount of Rs.4,33,91,096/- before the Power Finance Corporation in the interest bearing scheme in the name of Registrar General, Madras High Court within three weeks from the date of receipt of copy of this order and produce the deposit receipt before the Registrar General, High Court for his safe custody.

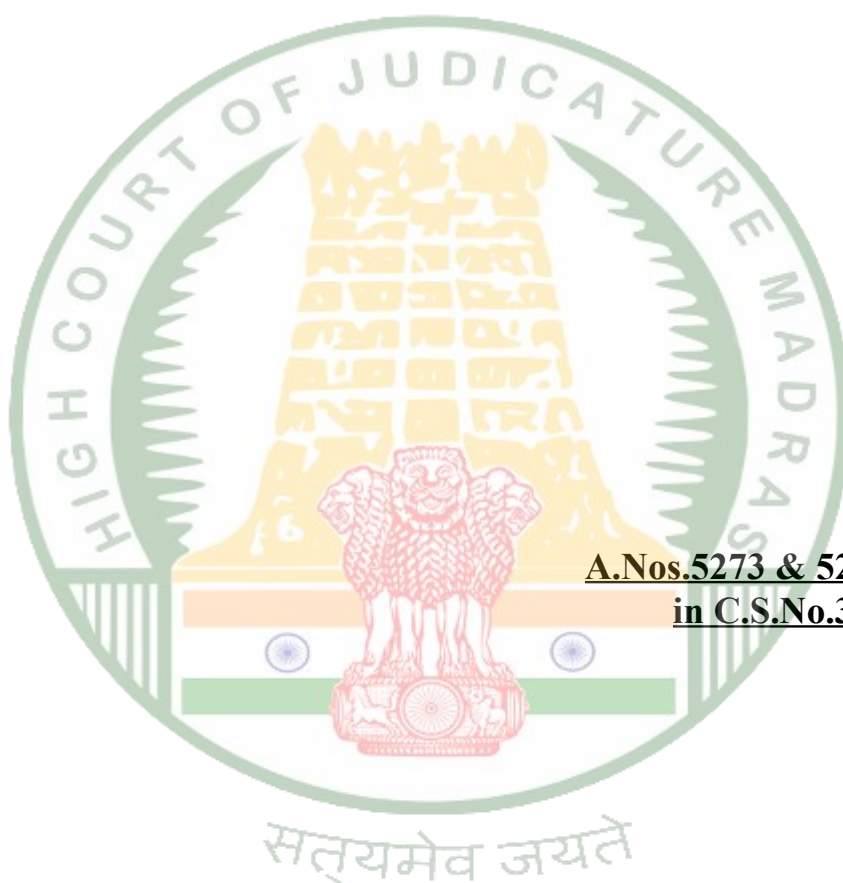
19.08.2019

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Note: Issue Order Copy on 20.08.2019

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