

A.No.9160 of 2019
in
C.S.No.1311 of 1994

Dr.G.Jayachandran, J.

Heard the learned counsel for the applicant/plaintiff.

2. The suit filed for recovery of money was allowed by this Court on 08.08.2019. Pending suit in the interlocutory application, this Court has directed the garnishee to deposit a sum of Rs.75,00,000/- to the credit of the suit and accordingly garnishee/State Bank of Hyderabad, Mittal Tower 'C' wing, Nariman Point, Bombay has deposited a sum of Rs.75,00,000/- to the credit of the suit. On 04.09.2018, a sum of Rs.3,14,85,979/- stands to the credit of the suit being the principal and interest approved. In the light of the decree passed by this Court on 08.08.2019, the present application is filed to withdraw the said amount to defray it against the decree.

3. The learned counsel for the applicant submits that from the date of decree the defendant is liable to pay a sum of Rs.7,24,68,279.53/- along with interest at the rate of 9% for the principal amount of Rs.1,81,72,084/-.

4. The learned counsel appearing for the defendant submits that the defendant company has been liquidated and the Official Liquidator has been appointed in the matter. The Official Liquidator is the person entitled for the said sum deposited in the suit account. Having entered into the shoes of the defendant, notice should go to the Official Liquidator.

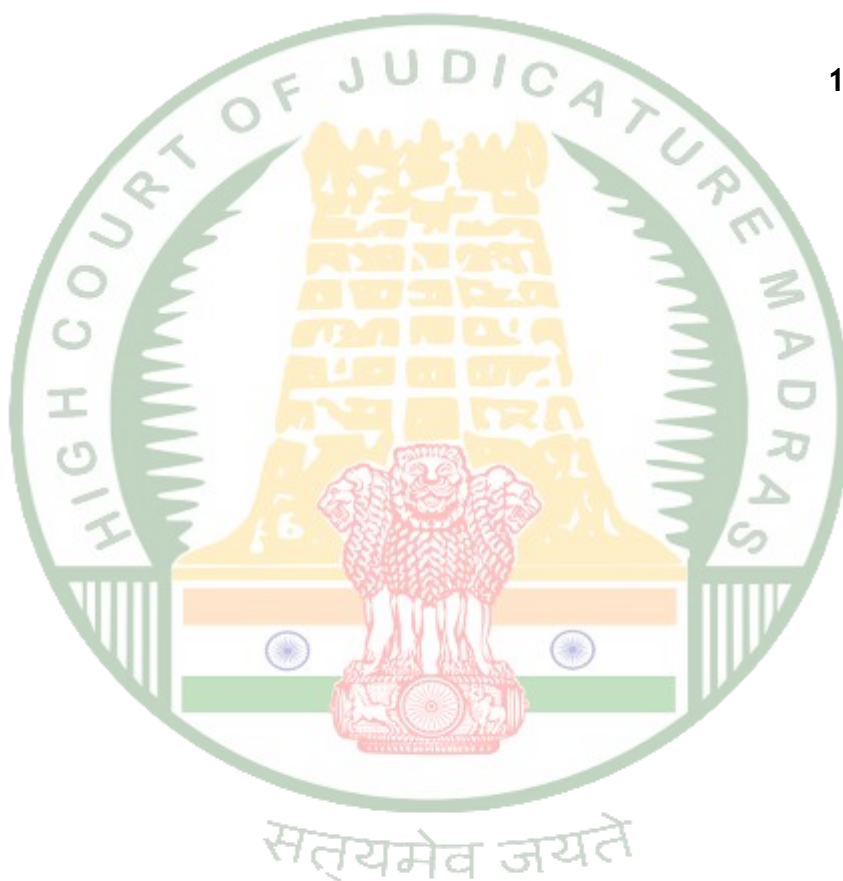
5. When the above said submissions made before this Court on 28.11.2019, this Court adjourned the matter requesting the learned counsel for the defendant to furnish the particulars about the Official Liquidator so that necessary action may be taken.

6. Today, when the matter taken up for consideration the learned counsel for the defendant is not able to furnish the details of the Official Liquidator. This Court is not even certain whether the defendant's company gone into liquidation. In any event, when the suit was filed in the year 1994 and the order of depositing a sum of Rs.75,00,000/- in the suit account passed by this Court, the defendant's company was active and the above interim order was passed in order to safeguard the interest of the plaintiff. The amount which is now sought to be withdrawn was credited to the account of

the suit lying before the company went on liquidation. The plaintiff having succeeded in the suit, the plaintiff /applicant is entitled to withdraw the said sum lying in the suit account as against part satisfaction of the decree amount. Accordingly, the application is allowed.

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10.12.2019



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