

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.12.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.Nos.34275 & 34155/2019

WP.No.34275/2019

Moolchand Finance Limited
JVL Plaza, D.No.501, Anna Salai
Chennai 600 018 represented by its
Director Mrs.Sandhya Kothari .. Petitioner

Versus

- 1.Tamilnad Mercantile Bank Ltd.,
Pondy Bazar Branch, No.31
Theagarayar Road,
Chennai 600 017.
- 2.Mr.M.C.Kothari
- 3.Mr.Pradeep Kothari
Mr.B.K.Kothari (Ceceased)
- 4.M/s.Moolchand Exports Ltd.,
represented by the Official Liquidator
High Court, Madras, Corporate Bhavan
II Floor, 29, Rajaji Salai,
Chennai 600 001.
[Amended as per the order of DRT in IA No.686/2017
dated 5.10.2017]
- 5.Mrs.Indirani Kailash
- 6.Mrs.Shakuntala
- 7.M/s.Rita Bottling Machines Ltd
Suvarna Dharsan, D.No.47, II Main Road
Kottur Village, Gandhi Nagar
Chennai 600 020.
- 8.Mr.P.S.Kannan
- 9.Mr.A.S.Alagia Nambi
- 10.Mr.W.M.Mohan
- 11.Mr.A.D.Ravirajan
- 12.Mr.A.I.Sudharshanam

- 13.M/s.Kar Leathers Pvt Ltd
Suvarna Dharsan, D.No.47, II Main Road
Kottur Village, Gandhi Nagar
Chennai 600 020.
- 14.Mr.K.Sundar
- 15.Mrs.Sundari
- 16.Mr.B.Babu Mandharan & Ms.B.Sheila
- 17.Mrs. Raji Ramineni
Dr.N.Rangabashyam (Deceased)
- 18.Mr.R.Gopalan
- 19.M/s.Jeevandas Laljee & Sons
103, Gonvindappa Naicken Street
PB No.1262, Chennai 600 001.
- 20.Mrs.Mythili Srinivasan
- 21.M/s.Amiy Trexim [P] Ltd.,
C.7/13, Karumayee Hsg.Estate
Salt Lake, Calcutta 700091.
- 22.Mr.K.V.K.Kumar
- 23.M/s.Dual Structural [P] Ltd
Sri Raghavendra Complex,
Plot No.1, Kalyani Nagar
Kottivakkam, Chennai 41.
- 24.M/s.Pioneer Silk Mills
C.8/A, Road No.7, UPPAL
Hyderabad.
- 25.M/s.Annai Moogambigai Roller
Flour Mills, 6, Davidson Street
Chennai 600 001.
- 26.M/s.Kothari Synfab Pvt Ltd
352, Parking Complex, Surat Textile
Complex, Ring Road, Surat.
- 27.Sri Durga Yarn Mills Ltd.,
PB.No.146, 7-C, Vallalar Street
Rajapalayam 626 117.
- 28.VDSR Rolling Mills
A-4, Pipdic Industrial Complex
Saidapet, Pondicherry 605 101.
- 29.M/s.Zen Global Finance
E.43A, 21st Cross Street
Besant Nagar, Chennai 600 020.
- 30.Mr.M.D.Rathi
- 31.Ms.Binjani Vinitha
- 32.M/s.Premier Data Products [P] Ltd.,
5, MES Road, Swaminathan Iyer St.,
East Tambaram, Chennai 59.
- 33.Mr.S.A.Faheem
- 34.M/s.Sourabh Newspaper P.Ltd
C-11, 2nd Floor, Golden Touch Complex
102, Govindappa Naicken Street
Chennai 600 001.
- 35.Mrs.Kasturi Bai
- 36.Mr.Murali
- 37.Pinjala Subba rao

38.Pinjala Nageswara Rao
39.Mr.Om Prakash Kothari
40.Mr.Ranjith V.Oommen
41.Mr.Benjamin Cherian
42.Ms.Durga Devi Rathi
43.Mr.Sathyanarayan Rao MV
44.Mrs.D.Mangala Sundari & Mr.Sowkoor Jagadeesha Shetty
45.Mrs.Rajasulochana
46.Mrs.Madhurshree Kothari & Mr.Balakrishna Kothari
47.Jayaprakash Kothari
48.Santhosh Kumari Kothari
49.Mrs.Kasthuri Devi Kothari
50.Mrs.Raj Kumar Bisani
51.Mrs.Saroj Kumar Rathi
[...Defendants 3,4 and 41 already parties to the application
and 49 to 53 have been impleaded as legal heirs of 2nd
defendant vide I.A.No.137/1997].
52.Mrs.R.Chiralekha
53.Mr.R.Omprakash
54.Mrs.R.Mahalakshmi
(...Defendants 54, 55 and 56 have been impleaded as legal
heirs of 19th defendant vide I.A.No.212/2016 allowed vide order
dated 07.06.2016 adjudication.)
55.Mrs.Vidhya Krishnamurthy
56.Mr.P.Krishnamurthy
(D57 & D58 impleaded as per Order in I.A.No.730 of 2018,
dated 20.12.2018)
57.Mrs.S.Kavitha
(D59 impleaded as per Order in I.A.No.731 of 2018, dated
20.12.2018)
58.Mrs.K.Bavatharani
(D60 impleaded as per order in I.A.No.732 of 2018, dated
20.12.2018)
59.Mrs.Shobana Ramachandran
(D61 impleaded as per Order in I.A.No.1020 of 2018, dated
20.12.2018)
60.M/s.Adhitya Traders and Promoters,
Represented by its Partner Mr.K.Karthikeyan,
Flat No. G-D & G-E, No.19,
Swarna Lok Apartments,
Meloney Road, T.Nagar, Chennai 600 017.
(D62 impleaded as per Order in I.A.No.1022 of 2018, dated
20.12.2018)
61.Mr.T.Kumaresh
(D 63 impleaded as per order in I.A.No.696 of 2018, dated
20.12.2018).
62.Mr.George B.Churian
(D64 impleaded as per order in I.A.No.1021 of 2018, dated
31.12.2018)

.. Respondents

(D64 impleaded as per order in I.A.No.1021 of 2018, dated 31.12.2018)

... Petitioner

Vs.

1.Tamilnadu Mercantile Bank Limited,
Pondy Bazar Branch,
No.31, Theagarayar Road,
Chennai 600 017.
No.57, VE Road, Tuticorin 628 002.

2.Mr/s.Moolchand Finance Limited.,
JVL Plaza, D.No.501, Anna Salai,
Chennai 600 018.

3.Mr.B.K.Kothari

4.Mr.M.C.Kothari

5.Mr.Pradeep Kothari

6.M/s.Moolchand Exports Limited,
Represented by the Official Liquidator,
High Court of Madras,
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(Amended as per order of DRT in I.A.No.686/2017, dated 05.10.2017)

7.Mrs.Indirani Kailash

8.Mrs.Shakuntala

9.M/s.Rita Bottling Machines Limited,
Suvarna Dharsan,
D.No.47, IInd Main Road,
Kottur Village, Gandhi Nagar,
Chennai 600 020.

10.Mr.P.S.Kannan

11.Mr.A.S.Alagia Nambi

12.Mr.W.M.Mohan

13.Mr.A.D.Ravirajan

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Chennai 600 020.

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17.Mrs.Sundari

18.Mr.B.Babu Mandharan and Ms.B.Sheila

B-3, Gothi Towers,
41, Sarangapani Street,
T.Nagar, Chennai 600 017.

19.Mrs.Rai Ramineni

10.Mr.R.Gopalan

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- 24.Mr.K.V.K.Kumar
- 25.M/s.Dual Structural (P) Limited,
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- 26.M/s.Pioneer Silk Mills,
C.8/A, Road No.7,
Uppal, Hyderabad.
- 27.M/s.Annai Moogambigai Roller,
Flour Mills, 6, Davidson Street,
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- 28.M/s.Kothari Synfab Private Limited,
352, Parking Complex,
Surat Textile Complex, Ring Road, Surat.
- 29.Sri Durga Yarn Mills Limited,
P.B.No.146, 7-C, Vallalar Street,
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- 35.Mr.S.A.Faheem,
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- 42.Mr.Ranjit V.Oommen
- 43.Mr.Benjamin Cherian
- 44.Ms.Durga Devi Rathi
- 45.Mr.Sathyanarayan Rao MVV
- 46.Mrs.Dr.Mangala Sundari & Mr.Sowkoo Jagadeesha Shetty,
Suvarna Lok, No.19, Malony Rd.
T.Nagar, Chennai 600 017.
- 47.Mrs.Rajasulochana
- 48.Mrs.Madhushree Kothari & Mr.Balakrishna Kothari
Suvarna Lok, No.19, Malony Rd.
T.Nagar, Chennai 600 017.
- 49.Jayaprakash Kothari
- 50.Santhosh Kumari Kothari

51.Mrs.Kasthuri Devi Kothari

52.Mrs.Raj Kumar Bisani

53.Mrs.Saroj Kumar Rathi

(...Defendants 3, 4 & 41 already parties to the application and 49 to 53 have been impleaded as legal heirs of 2nd defendant vide I.A.No.137 of 1997.

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55.Mr.R.Omprakash

56.Mrs.R.Mahalakshmi

(...Defendants 54, 55 and 56 have been impleaded as legal heirs of 19th defendant vide I.A.No. 212 of 2016 allowed vide order dated 07.09.216 adjudication)

57.Mrs.Vidhya Krishnamurthy

58.Mr.P.Krishnamurthy

(D57 & D58 impleaded as per order in I.A.No.730 of 2018, dated 20.12.2018)

59.Mrs.S.Kavitha

(D59 impleaded as per order in I.A.No.731 of 2018, dated 20.12.2018)

60.Mrs.K.Bavatharani

(D60 impleaded as per order in I.A.No.732 of 208, dated 20.12.2018)

61.Mrs.Shobana Ramachandran

(D61 impleaded as per order in I.A.No.1020 of 2018, dated 20.12.2018)

62.M/s.Adhitya Traders and Promoters,

Represented by its partner Mr.K.Karthikeyan,
Flat no - G-D & G-E, No.19, Swarna Lok Apartments,
Meloney Road T.Nagar, Chennai 600 017.

(D 62 impleaded as per order in I.A.No.1022 of 2018, dated 20.12.2018)

63.Mr.T.Kumaresh

(D63 impleaded as per order in I.A.No.696 of 2018, dated 20.12.2018)

... Respondents

COMMON PRAYER:- Writ petitions filed under Article 226 of the Constitution of India prays to issue a Writ of Certiorari, calling for records with regard to the impugned order dated 15.11.2019 in I.A.NoS.557 & 559 of 2019 in O.A.No.434 of 2007 on the file of DRT-II, Chennai and quash the same only to the extent of the operational portions, namely, "(a). AW1 shall be present before the Tribunal on 10.12.2019 and the counsel for both the petitioners shall complete their cross examination on the said date itself and if any portion of cross examination is left, the same should be completed invariably on the next day i.e., 11.12.2019, lest opportunity given hereunder shall stand closed without any further order...(c). Since it is represented that AW1 is no longer in service of the applicant bank, the first respondent bank is directed to make diligent effort to secure the presence of AW1 Shri Pradip for the purpose of continuation of cross examination. However, despite diligent effort, if the first respondent bank is unable to secure the presence of AW1

Shri Pradip then, the petitioners cannot insist on the production of the said witness viz., Shri Pradip for cross examination and drawing any adverse inference by the petitioners will not be allowed."

For Petitioners in
both writ petitions :Mr.K.A.Ramakrishnan for
Mr.C.Prasanna Venkatesh
For R1 in both petitions :Mr.Chandrasekaran

COMMON ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

- (1)The learned counsel for the petitioners seeks permission of this Court to withdraw both the writ petitions and has also made endorsements in the respective petitions, to that effect.
- (2)In view of the submission and endorsements made by the learned counsel for the petitioners, these writ petitions are dismissed as withdrawn. No costs.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

AP

To

1.Tamilnad Mercantile Bank Ltd.,
Pondy Bazar Branch, No.31
Theagarayar Road,
Chennai 600 017.

+1cc to Mr.C.Prasanna Venkatesh, Advocate SR.No.106007

+1cc to Mr.V.Chandrasekaran, Advocate SR.No.105370

WP.Nos.34275 & 34155/2019

RSI (CO)
GMY (03/02/2020)