

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2019

CORAM

The Hon'ble Mr.JUSTICE M.SUNDAR

W.P. No.27678 of 2004

&

W.M.P.Nos.7511 and 20502 of 2019

Sri Venkateswara Educational Trust
rep. By its Managing Trustee,
P.Vajravelu,
S/o.T.Palaniappan,
No.4C, Ramasamy 4th Street,
Rasipuram-637 408
Namakkal District.

.. Petitioner

Vs.

1.The General Manager,
Canara Bank,
Circle Office, Chennai-2.

2.The Branch Manager,
Canara Bank,
Gugai Branch, Salem.

3.The Branch Manager,
Canara Bank,
Rasipuram, Namakkal District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the respondents to repay the excess amount of Rs.9,43,109/- (received by the second respondent amounting to Rs.5,91,565.00 and the third respondent amounting to Rs.4,01,544.00) received by the respondents from the petitioner's trust together with interest at the rate of 10% per annum from 23.3.2004 till the repayment of Rs.9,43,109/- by the respondents.

For Petitioner : R.Sankara subbu

For Respondents : Mr.P.R.Raghunathan
for M/s.T.S.Gopalan & Co.

ORDER

This writ petition was referred to mediation vide an order of referral dated 21.08.2019. 'Tamil Nadu Mediation and Conciliation Centre under the aegis of this Court' ('TNMCC' for brevity) has since sent to this Court a mediation report dated 30.10.2019 stating that mediation has been completed and an agreement dated 22.10.2019 captioned 'Memorandum of Settlement' has also been enclosed.

2. Learned counsel on both sides, i.e., Mr.S.Packiaraj, learned counsel for petitioner and Mr.P.Raghunathan, learned counsel of M/s.T.S.Gopalan & Co. (Law Firm) for respondents submit that instant writ petition and writ miscellaneous petitions may please be disposed of in terms of aforesaid Memorandum of Settlement, which reads as follows:



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भारतीय गैर न्यायिक
एक सौ रुपये **Rs. 100**
रु. 100 **ONE HUNDRED RUPEES**
भारत INDIA
INDIA NON JUDICIAL

தமிழ்நாடு தமில்நாடு TAMILNADU BX 895643
 18-10-19 Co: Saravasa Educational
 Rasipuram Trust
MEMORANDUM OF SETTLEMENT
 N. Sumanth
 N. Sumanth, S.V.
 N. Sumanth, S.V.
 N. Sumanth, S.V.

சென்னை
 This Memorandum of Settlement is executed at Salem on this 22nd
22 day of October 2019
BETWEEN
 Canara Bank, a banking Company, constituted and functioning under the
 Banking Companies' (Acquisition And Transfer of Undertakings) Act, 1970,
 hereinafter referred to as "the Bank" (which expression unless repugnant
 to the context or meaning thereof shall include its successors in interest
 and liquidators) represented by P. Ramesh Prabhu son of M.
 Ponnuswamy working as Chief Manager of the Bank at its Rasipuram
 Branch

OF THE FIRST PART
 1. P. Ramesh Prabhu
 2. P. Ramesh Prabhu
 3. P. Ramesh Prabhu
 4. P. Ramesh Prabhu
 5. P. Ramesh Prabhu

AND
 6. N. Sumanth
 7. N. Sumanth
 8. N. Sumanth
 9. N. Sumanth
 10. N. Sumanth
 11. N. Sumanth

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1. **A.R.Duraisami**, son of Rameswamy Gounder, residing at No.6 ElappaChettiar Colony, Rasipuram, Namakkal District.
2. **S.Selvarajan**, son of R.Soundararajan, residing at No.4 Building Society Road, No.2, Rasipuram, Namakkal District
3. **M.Banumathi**, Wife Of P.Swaminathan, residing at No.7, S.R.V. Nagar, Kallacor, Rasipuram, Namakkal District
4. **R.Lakshmi**, wife of A.Ramasamy, residing at No.29, Kamaraj Nagar, Pattanam Road, Rasipuram, Namakkal District
5. **S.Soundram**, wife of M.Kumaravel, residing at No.1, Kamaraj Nagar, Pattanam Road, Rasipuram, Namakkal District
6. **E.Sudha**, wife of C.V.Sathyanarthy, residing at No.111, Bankada, Thengalpalayam Post, Rasipuram Taluk, Namakkal District
7. **R.Duraiswamy**, son of Ramalak Gounder, residing at 131, Colony Street, N.R. Apartments, BharathiCheranSalai, Rasipuram Post, Namakkal District 637 408
8. **Dr.E.Thangavel**, son of N.Elappan, residing at No.19, Bharthinagar, Swami SivanasanSalai, Rasipuram Post, Namakkal District 637408
9. **P.Vajravelu**, son of S.Palappappa Mudaliar, residing at No.40, Ramaswamy 4th Street, Rasipuram Post, Namakkal District 637408

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10. **K.N.Subramanian**, son of **K.S. Natesa Iyer**, residing at No.20/12, Building Society Road, No.3, Rasipuram Post, Namakkal District 637408, and

11. **R.Manoharan**, son of **Ramasamy Gounder**, residing at Sankankadu, Kakkaveri Post, Rasipuram Taluk, Namakkal District 637 408

(Hereinafter referred to as "**the Trustees**", which expression unless repugnant to the context or meaning thereof shall include each of them, some or all of them acting jointly or severally and their respective successors in interest, legal heirs, representatives and receivers in insolvency) **OF THE SECOND PART**

WHEREAS

1. **Sri Venkateswara Educational Trust**, a Public Charitable Trust declared on 08.02.1956 by the above referred Trustees had obtained Two Term Loans from the Bank's Gurai Salem Branch and Rasipuram Branch in an aggregate sum of Rs 5,00,00,000/- (Rupees Five Crores Only) only on certain terms and conditions.

2. **Sri Venkateswara Educational Trust** desired to pay the above referred credit facilities by way of Term Loan prematurely even during the term of the loans and requested the Bank there-for.

3. The Bank agreed to consider the reduction of the interest rate in respect of the Term Loans and sanctioned the same.

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4. Notwithstanding the reduction, **Sri Venkateswara Educational Trust** pre-closed the loans, discharged the mortgage and obtained delivery of the Title Deeds pertaining to the properties mortgaged to the Bank upon payment of Rs. 5,91,565/- to Gugal Salem Branch and Rs. 4,01,544/- to the Rasipuram Salem Branch of the Bank as demanded by the Bank by way of charges for pre-closure, Demand Draft Commission, upfront fee not realised earlier and took back the Title Deeds.

5. **Sri Venkateswara Educational Trust** represented by its Managing Trustee filed WP No. 27628/2004 before the High Court of Judicature at Madras under Article 226 of the Constitution of India praying for the issue of Writ Mandamus directing the Bank's Gugal Branch to pay a sum of Rs. 5,91,565/- and Rasipuram Salem to pay a sum of Rs. 4,01,544/- aggregating to Rs. 9,43,901/- together with interest at 10% per annum.

6. On 25.07.2007 the Hon'ble High Court of Judicature at Madras ordered the Bank ex parte to pay the sums claimed with interest and further directed the General Manager of the Bank at its Circle Office, Chennai to ensure the said payments within four weeks from the date of receipt of the certified copy of the order.

7. The Bank filed WMP 7911 of 2019 to recall the said order dated 25.07.2017.



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8. One Srinivasa Educational Trust represented by its trustee filed Contempt Petition bearing No.2729/2018 before the High Court, Madras for breach of the order.

9. During the pendency of the above referred Petitions, the Hon'ble Court directed the parties to mediation before the Tamil Nadu Mediation Council at High Court, Madras and the mediation proceedings are pending.

The Parties hereto have arrived at a settlement during the Course of Mediation proceedings with the good offices of the Mediator,

NOW THEREFORE THIS MEMORANDUM RECORDS as follows:

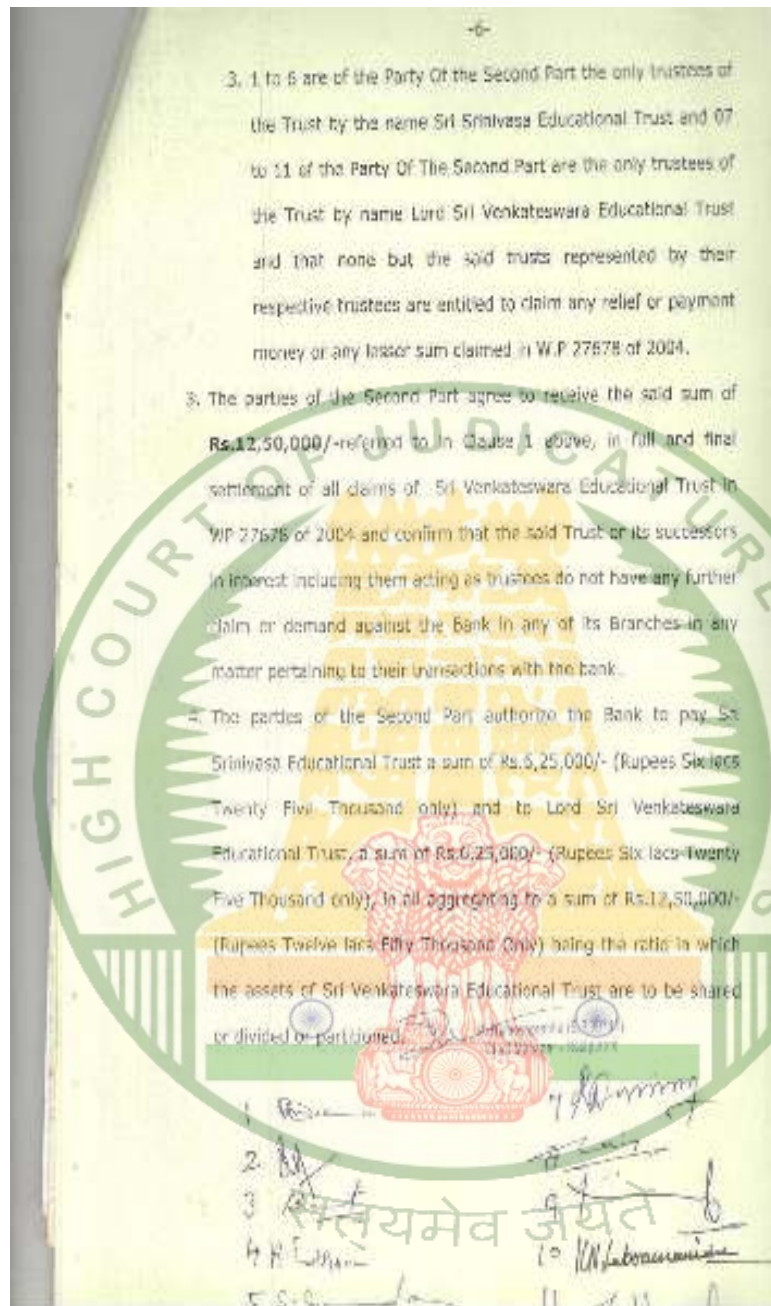
1. The Bank agrees to pay a sum of **Rs.12,50,000/- (Rupees Twelve Lakhs Fifty Thousand Only)** in full and final settlement of all claims and demands in WP No.27678 of 2004 to the Trustees of **Sri Venkateswara Educational Trust** or its successors in interest.

2. The Parties of the Second Part represent, agree, confirm, affirm and declare that:

1. The Parties of the Second Part were the only trustees of the Trust named "Sri Venkateswara Educational Trust" at all relevant times and that the said trust has been dissolved.

2. **Sri Srinivasa Educational Trust** and **Lord Sri Venkateswara Educational Trust** are the only and the true successors in interest of the Petitioner in the Writ Petition, namely, **Sri Venkateswara Educational Trust**.

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5. The parties of the Second Part jointly and severally agree with each other to indemnify and keep the Bank fully and comprehensively indemnified and saved harmless in respect of all claims, demands, proceedings, costs, charges, expenses outgoings and other moneys made by any person(s) whomsoever on account of the bank relying on the representations in clause (2) above and making payment to the two Trusts referred to above as successor in interest of Sri Venkateswara Educational Trust.

6. The parties hereto agree to file the instant Memorandum of Settlement before the Mediator and request the Mediator to record the full and final settlement, report settlement to the Hon'ble Court and post the matter before the Hon'ble Court for tendering payment by way of cheques.

7. The parties of the Second Part agree to record full and final satisfaction in WP 27678 of 2004, pray for such further or other orders recording the full and final settlement and also pray the Court to permit the withdrawal of the Contempt Petition bearing No.2729 of /2016.

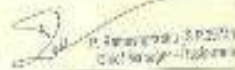


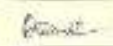
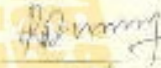
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IN WITNESS WHEREOF the parties have signed on the date, month and year above written.

For Canara Bank Name Designation Resident Branch	
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Trustees for Sri Srinivasa Educational Trust	
1. A.R.Duraisami	
2. S.Selvarajan	
3. M.Banumathi	
4. R.Lakshmi	
5. S.Sundaram	
6. E.Sudha	
Trustees for Lord Sri Venkateswara Educational Trust	
7. K.Duraisamy	
8. Dr.E.Thangavel	
9. P.Vajravelu	
10. K.N.Subramanian	
11. R.Manoharan	

HIGHER COURT OF JUDICATURE MADRAS



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3. It is also submitted by both the learned counsel that parties were present before TNMCC for concluding / signing the Memorandum of Settlement and therefore, their presence may please be dispensed with. This request is acceded to. It is submitted by learned counsel on both sides without disputation that all payments in accordance with aforesaid Memorandum of Settlement have been tendered, accepted and encashed.

Writ petition and writ miscellaneous petitions are disposed of in terms of aforesaid Memorandum of Settlement dated 22.10.2019, which shall form part of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa

To

- 1.The General Manager,
Canara Bank,
Circle Office, Chennai-2.
- 2.The Branch Manager,
Canara Bank,
Gugai Branch, Salem.
- 3.The Branch Manager,
Canara Bank,
Rasipuram, Namakkal District.

W.P.No.27678 of 2004

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srg 29/01/2020

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