

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 20TH DAY OF FEBRUARY 2020

THE HON'BLE MR. JUSTICE M.SUNDAR

E.P.NO.93 of 2016
IN
C.S.NO.219 OF 2002

Award dated 04.01.2017

E.P.No.93 of 2016:

M/s.Integrated Finance Company Limited,
rep.by its Legal Officer Mrs.Hema Jothi,
Vairama, 112, Thyagaraya Road,
T.Nagar, Chennai-600 017.

Having its registered office
currently at No.10, R-Block, IInd Floor,
Prem Nagar Colony, South Boag Road,
T.Nagar, Chennai-600 017 ..Decree Holder/Plaintiff

-vs-

1.M.R.Elangovan,

2. E.Latha,
Defendants 1 and2
Residing at No.15/24, Lotus Colony,
Anna Nagar, Chennai-600 102.

..Judgement Debtors/Defendants

This Execution Petition praying that this Court be pleased to order of Civil Arrest of JD1 namely M.R.Elangovan under order XX1 Rule 37 and 38 of C.P.C.

This Execution Petition coming on this day before this Court for hearing the Court made the following order:

Judgment debtor 1 in instant Execution Petition filed Company Application No.430 of 2019 owing to which interim stay of all further proceedings in instant EP was granted on 17.12.2019. This Execution Petition filed (which was being prosecuted before learned Master of this Court) has since been placed before this Court.

2. Read this in conjunction with and in continuation of separate orders dated 21.01.2020 made in 'Company Application' (hereinafter 'C.A' for brevity) No.430 of 2019 in C.P.No.172 of 2012, which reads as follows:

'Read this in conjunction with and in continuation of earlier proceedings/orders of this Court dated 17.12.2019.

2. Most relevant paragraph is paragraph 6, which reads as follows:

'6. Though prayer in instant application is for permission to pay Rs.20,00,000/- (Rupees Twenty Lakhs) to first respondent, this application is ordered permitting the applicant to pay Rs.25,00,000/- (Rupees Twenty Five Lakhs) in all, which shall be in full satisfaction of the aforementioned decree. This sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs)

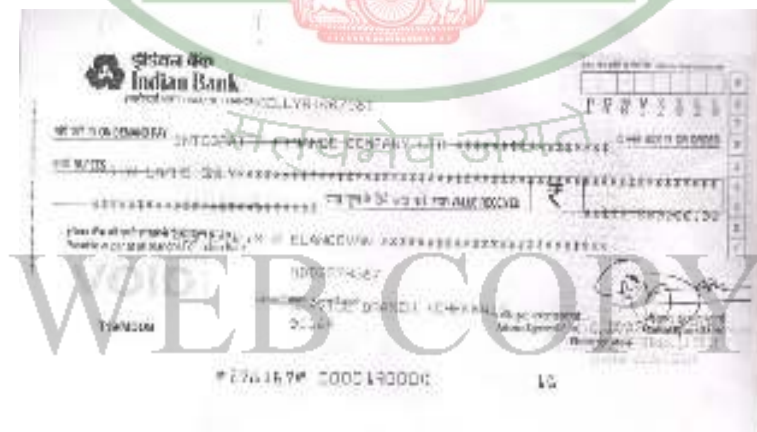
shall be paid in the following manner:

a) Rs.5,00,000/- (Rupees Five Lakhs) on or before 20.12.2019,

b) remaining Rs.20,00,000/- (Rupees Twenty Lakhs) shall be paid in four weeks therefrom i.e., on or before 20.01.2020.'

3. With regard to sub-paragraph (a) of paragraph 6, there is no dispute that Rs.5,00,000/- (Rupees Five Lakhs only) has since been paid on 19.12.2019 and that the instrument has also been encashed.

4. With regard to sub paragraph (b) of paragraph 6, Mr.Balaji, learned counsel submits that his client could muster Rs.10,00,000/- (Rupees Ten Lakhs only) and has brought a Demand Draft, scanned copy of which is as follows:



5. Learned counsel seeks permission to tender aforementioned Rs.10,00,000/- (Rupees Ten Lakhs only) today and pay the balance Rs.10,00,000/- (Rupees Ten Lakhs only)

within three weeks from today i.e., by 11.02.2020.

6. Considering the unique nature of this matter, any inflow qua IFCL is welcome and therefore, this Court is inclined to accede to this request, as ultimately it would be for the benefit of depositors and other creditors qua IFCL.

7. The aforesaid Demand Draft is tendered and counsel for IFCL has received the same as per direction of this Court.

8. The time line in the order/proceedings dated 17.12.2019, more particularly paragraph 6(b) will stand extended and applicant in A.No.3804 of 2019 shall pay the balance Rs.10,00,000/- (Rupees Ten Lakhs only) on or before 11.02.2020 in the same manner, in which Rs.5,00,000/- (Rupees Five Lakhs only) and Rs.10,00,000/- (Rupees Ten Lakhs only) have been paid thus far.'

3. A perusal of the aforesaid 21.01.2020 proceedings/orders and more particularly, the opening paragraph will reveal that the aforesaid order in turn has to be read in conjunction with and in continuation of earlier proceedings made on 17.12.2019, which reads as follows:

'The applicant herein suffered an exparte decree one and half decades ago (on 06.02.2004 to be precise) vide C.S.No.219 of 2002, in which, the first respondent herein was the plaintiff (obviously prior to liquidation proceedings).

2. More than eleven years later, an execution petition in E.P. No.93 of 2016, on the file of learned Master of this Court

was launched and an application in A.No. 7986 of 2018 was taken out with prayer for arrest. To be noted, the decree is for a sum of Rs.18,93,334.65 with future interest on principal.

3. There is no disputation that the suit in which the decree came to be passed arose due to an Automobile loan agreement for purchase of a Tata Sierra Car and as of November 1997, the dues were in the region of Rs.5.33 lakhs.

4. The second respondent in instant application, namely, The Federal Bank Limited (petitioning creditor qua the main company petition) has since removed itself from the scene, in the light of the petitioning creditor's liability being wiped out in entirety. Therefore, this leaves us with the applicant and the first respondent.

5. After some arguments, considering the nature of loan transaction, considering the trajectory of the suit, more importantly considering the disbursement of deposits qua the company under liquidation which is underway over a period of time, it was fairly agreed by all concerned that it would be appropriate if a round sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs) is accepted in full satisfaction of the aforesaid exparte decree dated 06.02.2004.

6. Though prayer in instant application is for permission to pay Rs.20,00,000/- (Rupees Twenty Lakhs) to first respondent, this application is ordered permitting the applicant to pay Rs.25,00,000/- (Rupees Twenty Five Lakhs) in all, which shall be in full satisfaction of the aforementioned decree. This sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs) shall be paid in the following manner:

7. *This application is disposed of on above terms.*

4. Today Mr.V.P.Raman, learned counsel for decree holder/plaintiff and Mr.A.S.Baalaji, learned counsel for judgement debtor 1, who has taken out C.A.No.430 of 2019, are before this Court.

5. It is submitted by both learned counsel without disputation or disagreement that aforementioned entire sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) in accordance with the aforesaid orders of this Court made in C.A. No.430 of 2019 in C.P.No.172 of 2012 has since been paid.

6. Therefore, full satisfaction of the decree dated 06.02.2004 in C.S.No.219 of 2002 is recorded and instant Execution Petition, namely E.P.No.93 of 2016 is closed.

Sd/.M.S.J.

20.02.2020

//Certified to be a true copy//

Dated this the _____ day of _____, 2020.

S.U./28.02.2020

COURT OFFICER

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