

In the High Court of Judicature at Madras

Dated : 27.7.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

OSA.No.375 of 2018, CS.Nos.790 of 2016 (A), 681 of 2017 (A) &
752 of 2018 & Crl.O.P.No.28022 of 2019 and
all connected pending MPs and applications

OSA.No.375 of 2018 :

Srinath Rajam, Director,
Sunco Machines Ltd.

...Appellant in OSA

Vs

1.M.P.I.Exports (P) Ltd., rep.by
its Director Mr.Krishnakumar Sood

2.Sunco Machines Ltd., Chennai-20

...Respondents in OSA

CS.No.790 of 2016 (A) :

M.P.I.Exports (P) Ltd., rep.by its
Director Mr.Krishnakumar Sood

...Plaintiff

C.S.No.752 of 2018 :

Capt.M.Venkatesan (Retd.)

...Plaintiff

Vs

1.Srinath Rajam, Director,
Sunco Machines Ltd.

2.Sunco Machines Ltd.

...Defendants

Crl.O.P.No.28022 of 2018 :

1.Mr.Srinath Rajam, Director
Sunco Machines Ltd.

2.M/s.Sunco Machines Ltd.
Chennai-20

....Petitioners

Vs

Cap.M.Venkatesan

...Respondent

ORIGINAL SIDE APPEAL under Section 13(1) of the Commercial Courts Act, 2015 against the order dated 20.7.2018 made in A.No.2511 of 2018 in C.S.No.790 of 2016.

C.S.No.790 of 2016 (A) filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of the Civil Procedure Code seeking a decree to direct the defendants to jointly and severally pay the plaintiff a sum of Rs.1,27,98,263/- together with interest thereon at 12% per annum on Rs.65,63,207/- from the date of plaint till the date of realisation and for costs of the suit.

CRIMINAL ORIGINAL PETITION under Section 482 of the Criminal Procedure Code to call for the records of the case in S.T.C.No.161 of 2019 on the file of the Judicial Magistrate, Ambattur and quash the same.

For Appellant in OSA & D1 in
both CS.Nos.790 of 2016 &
752 of 2018 & plaintiff in CS.No.
681 of 2017 : Mr.Srinath Sridevan

For Respondent-1 in OSA &
plaintiff in both CS.Nos.790 of
2016 & 752 of 2018; for
defendants in CS.No.681
of 2017 & respondent in
Crl.O.P.No.28022 of 2018 :Mr.B.Harikrishnan

For D2 in CS.No.790 of 2016 :Mr.K.Harishankar

For petitioners in Crl.O.P. :Mr.A.Sasidharan

COMMON JUDGMENT

(Judgment was delivered by T.S.Sivagnanam,J)

We have heard Mr.Srinath Sridevan, learned counsel appearing for the appellant in the original side appeal and plaintiff in C.S.No.681 of 2017; Mr.B.Harikrishnan, learned counsel appearing for the plaintiffs in C.S.Nos.790 of 2016 and 752 of 2018 and Mr.A.Sasidharan, learned counsel for the petitioners in Crl.O.P.No.28022 of 2018. The above mentioned counsel also appear on the other side in some of the matters.

2. These cases are listed before us for recording a settlement between the parties through mediation by the former Judge of the Hon'ble Supreme Court of India namely the Hon'ble Mr.Justice F.M. Ibrahim Kalifulla. A Memorandum of Settlement has been recorded in writing vide memo

appearing for Mr.Srinath Rajam in the criminal original petition as well as in the matter pending before the Hon'ble Supreme Court in SLP.No.1694 of 2018.

4. The matter was listed before us on 17.7.2020 and on that day, we passed the following order :

"This appeal has been listed to record a settlement arrived before the Hon'ble Mediator culminating in a memorandum of settlement dated 19.3.2020. Mr.Krishna Sood and Captain M.Venkatesan/respondents in these appeals are also present and they have attended hearing through video conference.

2. The learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents also attended hearing. It appears that the appellant is unable to log in due to connectivity issues.

3. The learned counsel appearing for the appellant submits that on the next hearing date, his client will appear through video conference.

4. It is pointed out by the learned counsel on either side that apart from this appeal, there are four other matters which are required to be listed and disposed of in terms of the memorandum of settlement. Those are (i) C.S.No.790 of 2016; (ii) C.S.No.681 of 2017; (iii) C.S.No.752 of 2018; and (iv) CrI.O.P.No.28022 of 2019. The learned counsel appearing for the appellant as well as the respondents consent that all the above mentioned cases to be listed before this Division Bench.

5. Therefore, Registry is directed to list all the four matters along with this appeal on 23.7.2020 and the matter has to be listed higher on board."

5. Though the matters were directed to be listed on 23.7.2020, due to reasons beyond control, the matters were not listed on that day. However, they are listed today. The parties to the settlement have appeared before us through video conferencing and we have also spoken to them through video conferencing. We find that they are in full agreement with what had been recorded in the memorandum of settlement by the Hon'ble Mediator. Thus, with consent of all the parties, the Memorandum of Settlement dated 19.3.2020 is recorded

6. In terms of the Memorandum of Settlement, a demand draft for a sum of Rs.45,00,000/- (Rupees forty five lakhs only) bearing D.D.No.426781 dated 20.7.2020 drawn at UCO Bank, Chennai Service Branch is handed over Mr.B.Harikrishnan, learned counsel appearing Mr.Krishakumar Sood and Capt.M.Venkateshan. Further, the parties have agreed to cooperate for the early disposal of the proceedings before the Hon'ble Supreme Court in the aforementioned Special Leave Petition. This is recorded. In this regard, an affidavit of Mr.Krishnakumar Sood to be filed before the Hon'ble Supreme Court has been handed over to Mr.Srinath Sridevan, learned counsel (which is shown virtually) and in terms of the affidavit, Mr.Krishnakumar Sood shall cooperate with the matter, so that the Special Leave Petition pending before the Hon'ble Supreme Court is suitably disposed of.

7. In terms of the Memorandum of Settlement dated 19.3.2020,
(i) the original side appeal in O.S.A.No.375 of 2018 is disposed of;

(ii) C.S.Nos.790 of 2016, 681 of 2017 and 752 of 2018 shall stand dismissed as withdrawn and the respective plaintiffs are entitled to refund of entire court fees;

(iii) Further, Criminal Original Petition No.28022 of 2019 shall stand allowed and the complaint in S.T.C.No.161 of 2019 on the file of the Judicial Magistrate, Ambattur is quashed. No costs. Consequently, all connected pending miscellaneous petitions and applications are closed.

*Copy of the Memo of Settlement dated 19/03/2020 enclosed

Sd/-

Assistant Registrar(CS-I)

//True copy//