IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE **C.V.KARTHIKEYAN**

C.S.(Comm. Div.) No.636 of 2018

Hanudev Investments Pvt. Ltd.
Represented by its Director, Mrs.Shobana Ravi,
having office at RR Tower III, TVK Industrial Estate,
Guindy, Chennai – 600 032. .. Plaintiff

/versus/

1.Oriental Bank of Commerce
63, Dr.Radhakrishnan Salai,
Mylapore, Chennai – 600 004.

2.JM Financial Asset Reconstruction Co.Ltd.,
represented by its Directors,
having office at 7th Floor,
Cnergy, Appasaheb Marathe Marg, Prabhadevi,
Mumbai – 400 025. .. Defendants



This Civil Suit is filed under Order VII Rule 1 of the Code of Civil Procedure and Order IV Rule 1 of the O.S Rules read with section 7 of the Commercial Courts Act, 2015, prayed to grant judgment and decree against the defendant;

a).Permanent injunction restraining the defendants, their men, agents, partner, associate, officer, representative, servant and all other persons acting on defendants' behalf from in any manner discharging the plaintiff's pari passu charge over the secured properties as identified in the Letter dated 29.04.2009 issued by the 1st defendant ceding such pari passu charge without the prior consent of the plaintiff;

b).Award damages of Rs.25,00,100/- (Rupees Twenty Five Lakhs One Hundred Only);

c).An order for costs of the proceedings; and

d).Such other order or orders as this Court may deem fit and proper in the facts and circumstances of the present case.

For Plaintiff : Mr.Vineet Subramani

For D1 : Mr.E.Venkatesh Babu

For D2 : Ms.Aishwarya S Nathan

**JUDGMENT**

A Memo of Compromise had been forwarded to the Registry, signed by the learned counsel for the plaintiff, enclosing a copy of settlement arrived at between the borrower and consortium led by the 2nd defendant, which is the assignee of the 1st defendant.

2.Learned counsel for the plaintiff has stated that in view of the settlement, the claim of the plaintiff has also settled and consequently, the suit may be dismissed as settled out of Court.

3.Along with the memo, a copy of the letter has been forwarded by the 2nd defendant addressed to R.R.Infopark Pvt. Ltd., which is the 3rd party to the suit. But in the letter, substantially the claim of the plaintiff had been settled. This letter is dated 18.03.2020. It is to be noted that it is a xerox copy of the letter and it had been signed by Mr.Vivek Grover, Managing Director and COO, of the 2nd defendant and by Mr.Sunil Subramanian, Executive Director of the 2nd defendant.

4.Heard, Mr.Vineet Subramani, learned counsel for the plaintiff and Ms.Aishwarya S Nathan, learned counsel for the 2nd defendant.

5.They both affirmed that in view of the settlement reached as aforesaid, the claim of the plaintiff is effectively settled.

6. The memo signed by the learned counsel for the plaintiff and the copy of the settlement are extracted below:

*"* ***MEMO***

*1.This memo is filed to bring on record the Settlement arrived at between the Borrower and Consortium led by the 2nd Defendant (as assignee of 1st defendant).*

*2.In view of the settlement, the claim of the Plaintiff is also settled and hence the Suit may be dismissed as settled.*

*Sd/-*
*Vineet Subramani*

*Counsel for Plaintiff"*

*WITHOUT PREJUDICE*

*JMFARC/VG/FY20/1764* *March 18, 2020*

| | |
|---|---|
| *Mr.R.Ravi*<br>*{in capacity as guarantor of RR Infopark}*<br>*Private Limited}*<br>*No.54, Beach Road,*<br>*Kalakshetra Colony, Besant Nagar,*<br>*Chennai 600 090.* | *R R Infopark Pvt. Ltd.*<br>*RR Tower III*<br>*T V K Industrial Estate*<br>*Guindy,*<br>*Chennai – 600 032.* |

*Dear Sir,*

*Sub : Settlement of Debt of RR Infopark Pvt. Ltd.*

*We write with regard to your settlement offer vide letter dated February 06.2020 regarding the captioned subject. We are pleased to advise that JM Financial Asset Reconstruction Company Ltd. ("JMFARC") is agreeable to accept payment of Rs.47,56,71,413/- (Rupees Forty Seven Crore Fifty Six Lakhs Seventy One Thousand Four Hundred and Thirteen Only) along with simple interest @ 12 % P.a(hereinafter referred to as "Agreed Consideration") against full and final settlement of dues payable by RR Infopark Private Limited, (herein referred to as ("the Borrower"). The acceptance of the above Agreed Consideration shall be on the following terms and conditions.*

***1.Payment Terms & Release of Security:***

*The Borrower/Guarantor shall pay the agreed consideration of Rs.47,56,71,413/- (Rupees Forty Seven*

*Crore Fifty Six Lakhs Seventy One Thousand Four Hundred and Thirteen only) along with simple interest @ 12% p.a on or before March 31, 2022 as mentioned in the table*

| ***Due date*** | ***Amount Due*** |
|---|---|
| *Immediately Upon Sanction* | *7,13,41,200* |
| *29-02-2020* | *1,56,450* |
| *31-03-2020* | *14,08,050* |
| *30-04-2020* | *1,56,450* |
| *31-05-2020* | *1,56,450* |
| *30-06-2020* | *12,51,600* |
| *31-07-2020* | *1,56,450* |
| *31-08-2020* | *1,56,450* |
| *30-09-2020* | *12,51,600* |
| *31-10-2020* | *1,56,450* |
| *30-11-2020* | *1,56,450* |
| *31-12-2020* | *12,51,600* |
| *31-01-2021* | *1,56,450* |
| *28-02-2021* | *1,56,450* |
| *31-03-2021* | *12,51,600* |
| *30-04-2021* | *1,56,450* |
| *31-05-2021* | *1,56,450* |
| *30-06-2021* | *12,51,600* |
| *31-07-2021* | *6,24,26,679* |
| *31-08-2021* | *3,12,900* |
| *30-09-2021* | *3,12,900* |
| *31-10-2021* | *9,74,33,931* |
| *30-11-2021* | *3,12,900* |
| *31-12-2021* | *3,12,900* |
| *31-01-2022* | *12,48,90,906* |

| *Due date* | *Amount Due* |
|---|---|
| *28-02-2022* | *3,12,900* |
| *31-03-2022* | *20,69,36,020* |

*On receipt of entire amount of Rs.47,56,71,413/- (Rupees Forty Seven Crore Fifty Six Lakhs Seventy One Thousand Four Hundred and Thirteen Only) along with simple interest @ 12% p.a JMFARC shall release its charge on the property mortgaged to the Consortium by conveying our No Objection for such release to the Lead Bank of the Consortium (ARCIL)*

*The aforesaid payment shall be made net of all charges that my be incurred by you and JMFARC shall receive the agreed consideration of Rs.47,56,71,413/- (Rupees Forty Seven Crore Fifty Six Lakhs Seventy One Thousand Four Hundred and Thirteen Only) along with simple interest @ 12% p.a in full without any deduction or net off whatsoever.*

***2.Other terms and conditions:***

*a) The terms and conditions as stipulated in the documents entered into between you as a Borrower and/or Guarantor and Oriental Bank of Commerce subsequently assigned to JMFARC would apply mutatis mutandis till the final payment as stipulated herein is received to the satisfaction of JMFARC.*

*b) Defaulted amounts shall carry simple interest @ 18% p.a for the period of default. Further the validity of this settlement is only up to March 31, 2022. Further in case of default, JMFARC reserves the right to revoke the above settlement and restore the dues as if the* *reliefs and concessions proposed in this letter were never granted we reserve the right to stipulate any additional conditions apart which consortium may stipulate in its sanction letter.*

*c) Besides the agreed consideration, the borrower/guarantors shall reimburse expenses incurred/to be incurred by JMFRAC towards safeguarding/insurance of securities, travelling, legal expenses, stamp duty or any other expenses.*

*d)In event if Corporation bank does not accept the proposal then same should not affect the current settlement given by the borrower to the members of the Consortium of Lenders.*

*e)JM Financial ARC Ltd., EARC and ARCIL can apportion the share of Corporation Bank ( i.e Rs.5.20 Crore along with the interest on the same), if borrower is not able to enter into the settlement with Corporation Bank on or before 30th April, 2020.*

*f)The Borrower cannot create any charge or encumbrance on the property without the approval of the Consortium of Lenders.*



*g)In the event of any single default in payment of any instalment on the agreed date or breach/ violation of any of the terms and conditions of this letter. JMFARC reserves the right to revoke the present approval and in such an event of revocation, the decision of JMFARC shall be final and binding on you. In case JMFARC exercises the right of revocation, all the reliefs and* *concessions / sanctioned /granted shall be treated as withdrawn ans all the terms and conditions of the original Loan Agreement(s)/ documents shall come into force as if, no such reliefs and concessions were ever granted to you as a Borrower and / or guarantor in the accounts of RR Infopark Private Limited. All legal proceedings instituted for recovery of the dues shall stand reinstated without further notice. Further JMFARC shall have the right to adjust any payment received under the present approval of reliefs and concessions against the outstanding dues in terms of the original Loan Agreement(s) / documents.*

*h) The Borrowers and Guarantors would jointly and severally perform all acts and deeds that will be required for filing of necessary consent terms and applications etc. as may be applicable and required by JMFARC.*

*i)All existing securities, guarantees, liabilities and legal documents including the loan/security documents entered into by and with the assignor Banks Oriental Bank of Commerce/JMFARC) shall remain in full force and effect till the entire amount is paid.*

*j)On satisfactory payment of the Agreed Consideration, all legal cases, if any, pending before various Courts shall be withdrawn to the extent of the claim of JMFARC and all tittle deeds pertaining to the mortgaged property shall be released to the owners of the respective properties/mortgagor(s). Also the Borrowers/Guarantors shall withdraw all legal proceedings filed against oriental Bank of Commerce/JMFARC, if any, in all Courts, forums and tribunals.*

*k)The Borrower and the Guarantors hereby agree that notwithstanding anything contained hereinabove, in case the borrower gets admitted to Corporate insolvency Resolution Process on account of an insolvency proceedings initiated under Insolvency and Bankruptcy Code, 2016 by any other creditor before the entire Agreed Consideration is received by JMFARC this Compromise shall be treated as failed and JMFARC shall revoke and the reliefs and concessions given hereunder, adjust the amounts received against the total outstanding dues owed by the Borrower and shall take appropriate steps available under law to recover the outstanding dues owed by the Borrower / Guarantors.*

*l)In the event the settlement is revoked, JMFARC shall be at liberty to recover its dues not only by taking recourse to all legal remedies available to it but all recovery proceedings shall stand reinstated without any further notice to the Borrower and /or Guarantors.*

*m)Company promoters and guarantor shall make arrangement for payment of any statutory and other dues payable by it and also renew insurance of the mortgaged properties at periodic intervals.*

*n)On satisfactory payment of the Agreed Consideration as per the settlement, all legal cases, if any, pending before various Courts shall be withdrawn on the basis of the terms & conditions drawn in the Consent Decree against the Borrowers/Guarantors and all tittle deeds pertaining to the mortgaged property shall be released to the owners of the respective properties/mortgagor(s). Also the Borrowers/Guarantors shall withdraw all legal proceedings filed against JMFARC/Assignor Bank, if* *any, in all Courts, forums and tribunals.*

*o)In case of default of payment of any part of the agreed consideration, the amount already paid by the Borrowers/Guarantors shall stand forfeited, and the Borrowers/ Guarantors shall not made any claim on account of such forfeiture.*

*p) settlement/Compromise terms with other Consortium members/Banks must be shared with us and in case of better settlement with them, proportionate increase of the settlement amount has to be paid to us.*

*q)Please note that time is the essence of this settlement.*

*This letter is being issued in duplicate. Please return one letter duly signed by the Borrowers and Guarantors of the company at the earliest in token of acceptance of the terms of this letter.*

*Yours faithfully,*

| | |
|---|---|
| *Vivek Grover* | *Sunil Subramanian* |
| *Managing Director & COO* | *Executive Director* |

<u>*Accepted*</u>

| | |
|---|---|
| *For RR Inforpark Pvt. Ltd* | *Mr.R.Ravi*<br>*{in capacity as guarantor of RR Infopark*<br>*Private Limited}*<br>*No.54, Beach Road,*<br>*Kalakshetra Colony, Besant Nagar,*<br>*Chennai 600 090.* |

**C.V.KARTHIKEYAN,J.**

smv

7.In view of the categorical statement, the suit is dismissed as settled out of Court. No order as to costs. The memo and copy of the settlement shall also form part of the decree.

8.Registry is directed to refund the Court fee in accordance with the Rules.

15.10.2020

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Internet : Yes / No
Index : Yes / No



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