

A.Nos.5555 to 5558 of 2019 and O.A.Nos.737 & 738 of 2019
in C.S.Nos.46 and 47 of 2019

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SENTHILKUMAR RAMAMOORTHY.J,

A.Nos.5555 to 5558 of 2019 are filed by Radiance Media Private Limited so as to enforce the order dated 01.07.2019 in Arbitration proceedings initiated by Radiance Media Private Limited against Escape Artists Motion Pictures and three others.

2. By the said order, the 1st and 2nd respondents therein viz., Escape Artists Motion Pictures and Kondaduvom Entertainment were directed to deposit a sum of Rs.2,89,98,989/- before the Arbitrator within a period of three weeks from the date of the order and to permit the claimant therein to withdraw the same. On account of non-compliance of the order, the above applications were filed. Pursuant to the order passed at the last hearing, the learned counsel appearing for Escape Artists Motion Pictures, represented by Mr.P.Madan, filed an affidavit dated 27.02.2020. In the said affidavit, it is stated that the only asset owned by the deponent, Mr.P.Madan, is his house bearing No. 3A, Tranquil Terrace, 69, Kamdar Nagar second Street, Nungambakkam, Chennai-34, which is jointly owned by Mr.P.Madan and his wife. It is also

stated that the said asset is mortgaged with ICICI Bank and that the amount outstanding is approximately Rs.22,00,000/-. In paragraph No.5 of the said affidavit, it is stated as follows:

"I submit that, I have no property other than my residence i.e. No.3A, Tranquil Terrace, 69, Kamdar Nagar Second Street, Nungambakkam, Chennai which is jointly owned by me and my wife and the same is also mortgaged with M/s.ICICI Bank and the outstanding with the said account is Rs.35,00,000/- (appx). The value of the property is Rs.1,50,00,000/- (appx.) There are other creditors/financiers who had lent money on the said property as well."

3. The learned counsel for the Applicant Radiance Media Private Limited invited my attention to the order passed in A.Nos 2 to 4 of 2019 in Arbitration case No.1 of 2018 and pointed out that the first and second respondents therein viz., Escape Artists Motion Pictures and Kondaduvom Entertainments were directed to pay a sum of Rs.2,89,98,988/- within a period of three weeks from 01.07.2019, but that only part payment was made. He also pointed out that this order has not been complied with till date. Accordingly, he requested that an order of attachment of the property owned by Mr.P.Madan and his wife may be ordered so as to provide security in respect of the outstanding debt. The learned counsel appearing for Mr.P.Madan submits that neither Mr.P.Madan nor his wife have any objections to the said property being attached subject to the

mortgage in favour of ICICI Bank.

4. The learned counsel appearing for Mr.K.Punniyamurthy, the first defendant in C.S.Nos.46 and 47 of 2019, submits that he is also a creditor of Escape Artists Motion Pictures and that therefore, the order of attachment should also operate for the benefit of the said Mr.K.Punniyamurthy. In support of their contention, he referred to the order dated 01.07.2019 in O.A.Nos.46 and 47 of 2019 in C.S.No.47 of 2019, wherein the 4th respondent, namely, Mr.P.Madan, had undertaken to pay a sum of Rs.8.5/- Crores and also honour the terms of the Memorandum of Understanding dated 31.03.2018 entered into with Mr.K.Punniyamurthy and Mr.K.Premkumar. He also referred to the said Memorandum of Understanding, wherein Escape Artists Motion Pictures and Mr.P.Madan had agreed to pay a sum of Rs.8.5/- Crores as the first installment of the total outstanding of 18.72/- Crores. With regard to the second installment, it was agreed that the 50% share of Escape Artists Motion Pictures in the movie "Duruva Natchathiram" is transferred and assigned without any condition to Mr.K.Punniyamurthy and Mr.K.Premkumar so as to enable them to realise the balance outstanding of Rs.10.22/- Crores.

5. The learned counsel contended that the first installment of Rs.8.5/- Crores did not cover the interest liability thereon and that this is referred to in clause-6 of the memorandum of understanding dated 13.03.2018, which was undertaken to be honoured as per the order dated 05.09.2019 in O.A.Nos.46 of 2019.

6. On the above basis, he submits that the order of attachment should operate not only for the benefit of Radiance Media Private Limited but also that of Mr.K.Punniyamurthy and Mr.K.Premkumar.

7. The learned counsel for M/s.Escape Artists Motion Pictures and Mr.P.Madan submits that Mr.K.Punniyamurthy and Mr.K.Premkumar are adequately secured as regards the balance payment of Rs.10.22/- Crores and that therefore, the order of attachment should be confined to the debts of Radiance Media Private Limited. In this regard, he contends that in addition to Rs.8.5/- Crores interest was also paid to Mr.K.Punniyamurthy and Mr.K.Premkumar.

8. Upon considering the submissions of the learned counsel for the respective parties and on examining the records, I find that Escape Artists Motion Pictures, represented by the partner, Mr.P.Madan, has

admittedly not complied with the commitment made to this court earlier. However, in compliance with the directions issued at the previous hearing, an affidavit has been filed setting out the details of the property owned by P.Madan and his wife. In the said affidavit, the value of the property is specified as Rs1.5 Crores and it is stated that the amount outstanding to ICICI Bank as on date is Rs.22 Lakhs. ICICI Bank is not before this Court. However, from the schedule of payment dated 22.05.2020 which has been produced by Mr.P.Madan, it appears that the outstanding amount as of 10.02.2020 was about Rs.23.11/- lakhs and this roughly tallies with the figure set out in the affidavit. Therefore, it appears that the property value is much higher than the amount outstanding to ICICI Bank.

9. Keeping in mind the facts and circumstances, including the fact that the dues of Mr.K.Punniyamurthy and Mr.K.Premkumar are secured by an assignment of Escape Artists Motion Pictures 50% share of the film or movie "Dhuruva Natchathiram" and reckoning the consent of Mr.P.Madan to provide a security to the Radiance Media Private Limited in respect of the above mentioned property, I am inclined to pass the following orders:

i. There shall be an order of attachment of the property bearing bearing No. 3A, Tranquil Terrace, 69, Kamdar Nagar second Street, Nungambakkam, Chennai-34, along with the proportionate undivided share of land as security for the amount of Rs.1,23,98,988/-, which is outstanding to Radiance Media Private Limited as per order dated 01.07.2019 in A.Nos.2 to 4 of 2019.

ii. ICICI Bank is directed not to hand over the original title deeds relating to the said property to Mr.P.Madan or his wife upon discharge of the entire loan to ICICI Bank. Such title deeds shall instead be deposited with the Registrar General of this Court by ICICI Bank. A copy of this order shall be communicated to ICICI Bank by Mr.P.Madan immediately upon receipt so as to ensure compliance.

iii. Mrs.M.Meenakshi, wife of P.Madan, shall file a consent affidavit on or before 09.03.2020 consenting to the order of attachment of the property.

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10. Application Nos.5555 to 5558 of 2019 and O.A.Nos.737 and 738 of 2019 are disposed of in terms of or in view of the above order.

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03.03.2020

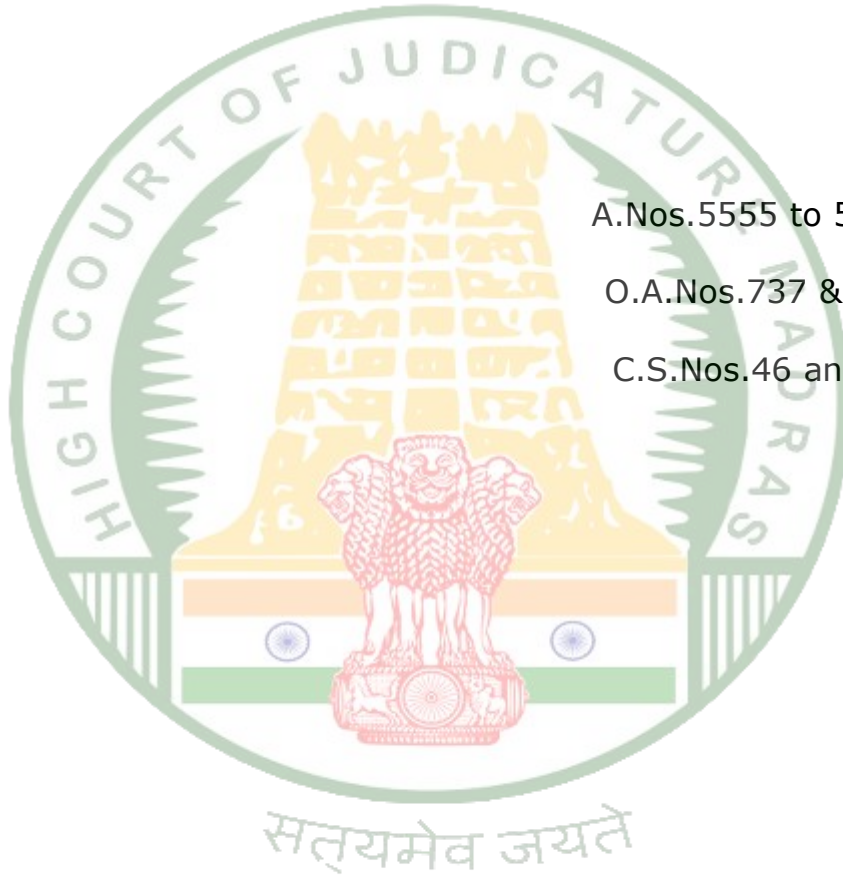
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