

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

C.S.No.578 of 2019

and

A.No.7297 of 2019

Mr.K.M.Allauddin,
Sole Proprietor, M/s. Sea Traffic,
New No.4, Old No.30,
Errabalu Chetty Street, 2nd Floor,
Chennai - 600001.

...Plaintiff

Vs.

Owners and Parties interested in
The vessel MT HANSA PREM
Presently lying at the Kamarajar Port,
Ennore, (Previously known as
Ennore Port Limited) and is
Represented herein by her Master

...Defendant

PRAYER: Civil Suit filed under Order XLII Rule 1, 2 and 3 of
O.S.Rules read with Order VII Rule 1 of C.P.C. praying for a judgment
and decree against the Defendant

(a) For a sum of Rs.3,55,979.43 with further interest at 18% per
annum from 21.09.2019 till the date of realisation in full;

(b) For Arrest and Sale of the Defendant Vessel, being MT HANSA PREM, in as is where is condition, presently in Indian waters at Kamarajar Port, Ennore, Tamil Nadu, India;

(c) For a direction to adjust the Sale Proceeds of the Defendant Vessel being MT HANSA PREM against the Suit Claim.

(d) For Costs of this Suit; and

(e) And for such other or further reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case and thus render justice.

For Plaintiff : Mr.S.Vasudevan

For Defendant : Mr.Mukund Rao
for Eswar Kumar Rao

JUDGMENT

The suit is for recovery of a sum of Rs.3,55,979.43/- together with further interest at the rate of 18% per annum from 21.09.2019 till the date of realisation, as well as for arrest and sale of the defendant Vessel MT HANSA PREM and a consequential direction to adjust the sale proceeds of the defendant Vessel against the suit claim.

2. This Court, by an order passed in an application in A.No.7297 of 2019, had ordered for arrest of the Vessel, pursuant to which, the defendant had furnished security for the total suit claim of Rs.3,55,979/- by way of a Demand Draft No.190493, dated 26.09.2019, which is now lying in deposit under the suit.

3. Pending the suit, the parties have amicably resolved the disputes among themselves, whereby the defendant has agreed that the total suit claim could be recovered from the deposited amount, if the interest claimed by the plaintiff is reduced to 9% instead of 18%. The plaintiff also has no objection to such an offer and has agreed to receive the suit claim together with interest at the rate of 9% per annum. The amount of Rs.3,55,979/-, which has been deposited before this Court is towards the principal amount of Rs.2,50,161.15/- and the interest calculated at the rate of 18% from 30.04.2017 to 20.09.2019 works out to Rs.1,05,818.28/-.

4. In view of the settlement arrived between the parties, the plaintiff could be entitled to interest at the rate of 9% per annum for the period commencing from 30.04.2017 till 20.09.2019, which works out to Rs.52,900/- approximately. The defendant has no objection, if the said amount is ordered to be paid to the plaintiff. The learned counsel for the defendant has also filed a memo today to this effect.

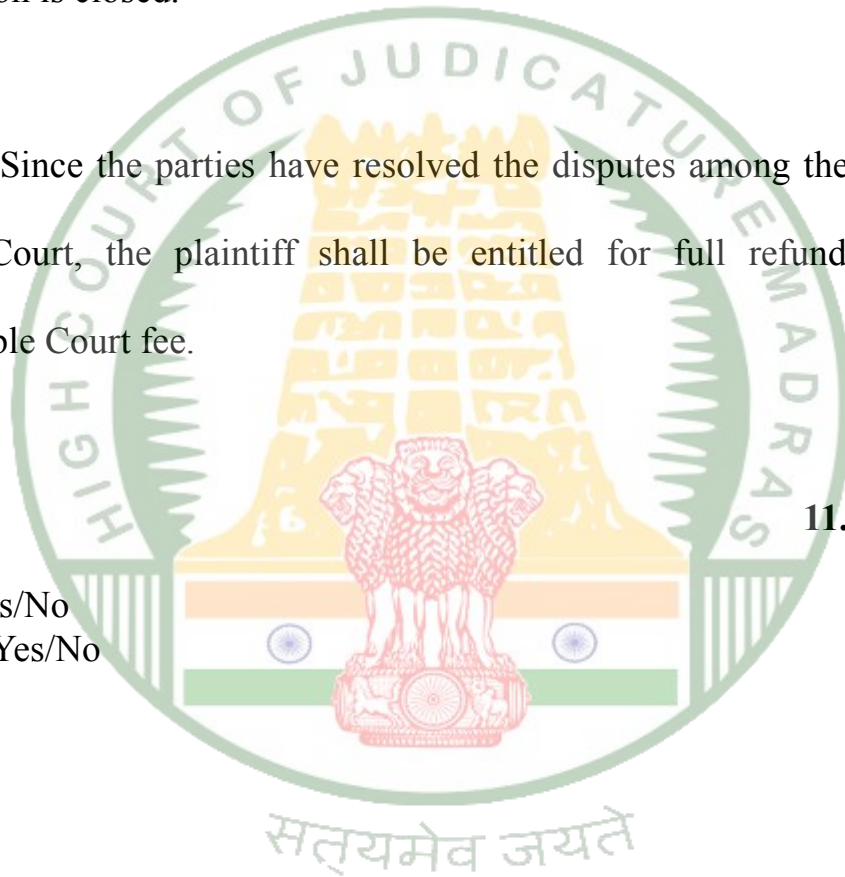
5. Recording the memo filed by the defendant herein, the present suit stands closed as settled out of Court. Consequently, the defendant is granted liberty to file an appropriate memo before the Registrar General of the Madras High Court seeking for discharge of the fixed deposit made by way of Demand Draft No.190493, dated 26.09.2019 in the suit account and on receipt of such a memo, the Registrar General shall discharge the fixed deposit and direct the Indian Bank, Madras High Court Branch to pay a sum of Rs.3,03,061.15/- (2,50,161.15 + 52,900) to the plaintiff and the balance amount lying in the fixed deposit shall be

paid to the defendant herein. Such an exercise of disbursing the amount shall be made atleast within a period of one week from the date of receipt of a copy of this Judgment. No costs. Consequently, the connected application is closed.

6. Since the parties have resolved the disputes among themselves out of Court, the plaintiff shall be entitled for full refund of the permissible Court fee.

11.03.2020

Index:Yes/No
Internet:Yes/No
hvk



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