

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A. No.2364 of 2017
and
CMP.No.12667 of 2017

1.C.Mariappan
2. Maharajan

... Appellants/Respondents

Vs.

M/s.Shriram Transport Finance Co. Ltd.,
ESR Complex, 2nd Floor,
14.A, Square Market, Mettur Dam,
Mettur Taluk, Salem.
Rep. by its POA Jayakumar.

... Respondent/Petitioner

Civil Miscellaneous Appeal filed under Section 37(1)(a) of the Arbitration Act, 1996 to set aside the ex-parte attachment petition and order dated 07.11.2016 passed by the 2nd respondent / District Court, Salem in dispute between the appellant and the 1st respondent made in Arbitration Dispute, bearing SALEM50307150002.

For appellants : Mr.R.Deepa

For respondent : Mr.D.Venkatesan

JUDGMENT

(The Judgment of the Court was delivered by R.Subbiah, J)

The appeal is heard through video-conferencing.

2. When the appeal is taken up for hearing, the learned counsels appearing for both sides filed Memos.

3. The memo, dated 18.08.2020, filed the learned counsel for the appellant, is extracted below:

"(1) The above petition is filed against the ex-parte attachment order of immovable agricultural property passed by the Principal

District Judge, Salem in Ar.O.P.64 of 2016 under Arbitration Act, 1996.

(2) It is submitted that in the above matter, the Hon'ble High Court of Madras was pleased to pass an order of stay against the above said ex-parte attachment order of immovable agricultural property passed by the Principal District Judge, Salem in Ar.O.P.64 of 2016 on depositing a sum of Rs.2,00,000/- (Rupees Two lakhs) only. In compliance with the order passed by the Hon'ble High Court of Madras, on 15.11.2017, the Appellant deposited a sum of Rs.2,00,000/- (Rupees Two Lakhs) only before Principal District Judge, Salem in Ar.O.P.64 of 2016.

(3) It is submitted that on 14.06.2019 the Hon'ble High Court of Madras was pleased to refer the petition for Mediation Centre and during mediation the settlement has been arrived between parties on 12.07.2019.

(4) In pursuance of the settlement agreement dated 12.07.2019 and subsequent insistence of the interest by the respondent company, the appellant paid Rs.5,04,999/- (Rupees Five Lakhs Four thousand nine hundred and ninety nine only) to the respondent Company and the respondent Company has also acknowledged the same. The receipt of the same are also attached herewith.

(5) In view of the full and final settlement of the loan amount in terms of the settlement agreement agreed between the parties hereto, it is humbly prays that

1. the appellant may be permitted to withdraw the sum of Rs.2,00,000/- (Rupees Two Lakhs only) deposited before the Principal District Judge, Salem in Ar.O.P.64 of 2016.

2. The respondent may be directed to return the original documents filed in loan-cum- hypothecation agreement dated 16.07.2013 and

3. the ex-parte order of attachment of the agricultural land passed by the Principal District Judge in Ar.O.P.64 of 2016 may be raised and thus render justice."

4. The memo, dated 20.08.2020, filed by the learned counsel for the respondent, is extracted below:

"1. The above appeal has been filed by the appellant herein against the order of

attachment of immovable property passed by the Hon'ble Principal District Judge, Salem in Ar.O.P.64 of 2016 under Arbitration Act, 1996.

2. It is submitted that on 14.06.2019, the High Court of Madras was pleased to refer the petition for Mediation and on the course of mediation the appellant and the respondent herein has arrived to an amicable settlement on 12.07.2019 and a Settlement agreement has also been signed by both the parties.

3. It is further submitted that in consonance with the above said settlement agreement and towards further interest, the respondent has received the full and final settlement amount of Rs.5,04,999/- (Rupees Five Lakhs Four Thousand Nine Hundred and Ninety Nine only) on 07.08.2020. Hence, it is humbly prayed that this Hon'ble Court may be pleased to record the memo and close the above petition and thus render justice."

5. Considering the submissions made by the learned counsel for both the parties and the memos filed by them, this appeal is disposed of, recording the above said Memos, with the following directions:

(a) the appellant is permitted to withdraw the sum of Rs.2,00,000/- (Rupees Two Lakhs only) deposited before the Principal District Judge, Salem in Ar.O.P.64 of 2016.

(b) The respondent-Company is directed to return the original documents filed in loan-cum- hypothecation agreement, dated 16.07.2013 and

(c) The ex-parte order of attachment of the agricultural land passed by the Principal District Judge, in Ar.O.P.64 of 2016 is raised.

No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS IV)

//True Copy//

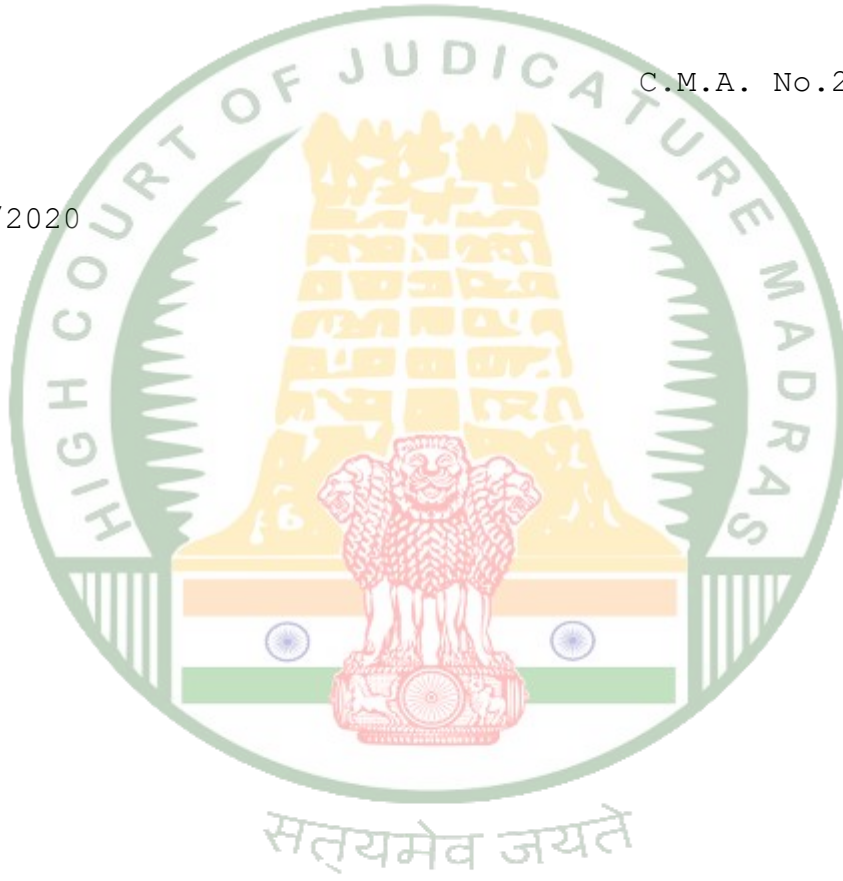
Sub Assistant Registrar

To

1. The Principal District Judge,
Salem.
2. The Section Officer,
V.R.Section,
High Court, Madras.

C.M.A. No.2364 of 2017

vba[co]
srg 17/09/2020



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