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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 5TH DAY OF JULY 2021

THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.739 of 2000

AND

O.A.No.709 OF 2005

C.S.No.739 of 2000:-

Infrastructure Leasing and Financial
Services Limited
ITC Center,
Ground Floor,
759 Anna Salai,
Chennai 600 002.
represented by its
Authorised Signatory

...Plaintiff

Versus

**1.Official Liquidator,
High Court,
Madras,
Liquidator of M/s.Fidelity Industries Ltd., (in Liquidation)
I Floor, Kuralagam,
Chennai-600 104.**

2.Mr.Ashok Muthanna,
Managing Director
M/s.Fidelity Industries Ltd.,
Aarthi Chambers,
III Floor,
189 Anna Salai,
Chennai 600 006.

3.M/s. Nakshatra Trading Pvt.Ltd.,
E/80, Srinagar Co-op. Housing society,



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P.L.Lokhande Marg,
Pestom Sagar,
Chembur,
Mumbai 400 070.

4.M/s.Samjhota Capital and Savings
Finance Pvt.Ltd.,
45/47, Bank of Maharashtra Building,
Bombay Samachar Marg,
Mumbai 400 023.

(Amended as per order dated
13.08.2004 passed by the
Hon'ble Mr.Justice S.K. Krishuan
in Appln.No.3057 of 2004
in C.S.No.739 of 2000)

...Defendant

Civil Suit praying that this Hon'ble Court be pleased to pass a Judgement and decree jointly and severally against the First to the Fourth Defendants directing (a) to pay a sum of 8,96,89,683/- (Rupees Eight Crores Ninety Six Lakhs Eighty Nine Thousand Six Hundred and Eighty Three only) together with interest at 24% per annum on Rs.7,00,00,000/- (Rupees Seven Crores only) with quarterly rests from the date of plaint till date of payment to be realised inter alia by repossession and sale of the hypothecated assets and the pledged shares more particularly described in the Schedules 'A', 'B' and 'C' hereunder respectively; and

(b) on the failure to recover the moneys through repossession and sale as referred to in prayer (a) above, direct the First and Second Defendants to pay the decree amount less the amount realised by repossession and sale as per prayer(a);



WEB COPY (c) for costs of the suit;

A.No.709 OF 2005:-

M/s.Infrastructure Leasing
& Financial Services Limited
3rd Floor, Wescare Towers,
No.16, Cenotaph Road,
Teynampet, Chennai-600 018
Represented by its Authorised Signatory

...Applicant/Plaintiff

Versus

1. Official Liquidater,
High Court, Madras,
as the Liquidator of M/s.Fidelity
Industries Limited (in liquidation),
First Floor, Kuralagam,
Chennai-600 104.
- 2.Mr.Ashok Muthanna,
Managing Director
M/s.Fidelity Industries Ltd.,
Aarthi Chambers,
III Floor, 189 Anna Salai,
Chennai 600 006.
- 3.M/s. Nakshatra Trading Pvt.Ltd.,
E/80, Srinagar Co-op. Housing society,
P.L.Lokhande Marg,
Pestom Sagar, Chembur,
Mumbai 400 070.
- 4.M/s.Samjhota Capital and Savings
Finance Pvt.Ltd.,
45/47, Bank of Maharashtra Building,
Bombay Samachar Marg,
Mumbai 400 023.

...Defendants/Respondents



A.No.709 OF 2005:-

WEB COPY

Original Application praying that this Hon'ble Court be pleased to permit the Applicant to possess the Hypothecated Assets which are more fully described in Schedules A and B to the Judge's Summons and to sell the same, in terms of Clause 8 of the Deeds of Hypothecation dated 28.10.1998 and 4.2.1999 and apply the net proceeds of such sale towards its suit claim in C.S.No.739 of 2000 pending on the file.

This suit along with the application coming on this day before this court for hearing in the presence of Mr.Manoj Menon for M/s.V.Nataraj, S.Ragunathan and P.V.Sabaridas, Advocates for the plaintiff in C.S.No.739 of 2000 and for the applicant in A.No.709 of 2005 and upon reading the plaint filed in C.S.No.739 of 2000 and the order dated 25/01/2008 made in A.No.709 of 2005 and the counsel for the Plaintiff having submitted that the 1st defendant has been wound up and the 2nd defendant has been declared insolvent and the suit against the defendants 3&4 has already been dismissed by the learned Master on 14.10.2008 and it is therefore clear that nothing survives in the suit and this court does not find any chance of success for the plaintiff and no purpose will be served by keeping the suit pending. **It is ordered as follows:-**



WEB COPY That the suit in C.S.No.739 of 2000, be and is hereby dismissed under Rule 3(a) of order XIII A of the code of civil procedure as amended by the Commercial Courts, Act 2015.

2) That the A.No.709 of 2005 do stand closed.

3) That there shall be no costs of this suit.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
5TH DAY OF JULY 2021.

Sd./-

ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments.



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WEB COPY VSP

09/08/2021

C.S.No.739 OF 2000
AND
O.A.No.709 OF 2005

ORDER

DATED: 05.07.2021

THE HON'BLE MR. JUSTICE
R.SUBRAMANIAN

APPROVAL ON:08/10/2021

APPROVED ON:20/10/2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 05.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.739 of 2000

and

A.No.709 of 2005

Infrastructure Leasing and Financial Services Limited
ITC Center
Ground Floor
759 Anna Salai
Chennai 600 002
represented by its
Authorised Signatory.

...Plaintiff

.Vs.

1.Official Liquidator, High Court Madras
Liquidator of
M/s.Fidelity Industries Ltd., (in liquidation)
I Floor, Kuralagam,
Chennai – 600 104.

2.Ashok Muthanna

3.M/s.Nakshatra Trading Pvt. Ltd.,
E/80, Srinagar Co-op. Housing Society
P.L.Lokhande Marg
Pestom Sagar
Chembur
Mumbai 400 070.

4.M/s.Samjhota Capital and Savings
Finance Pvt. Ltd.,
45/47, Bank of Maharashtra Building
Bombay Samachar Marg
Mumbai 400 023.

... Defendants



Plaint filed under Order VII Rule 1 of the Code of Civil

Procedure read with Order IV Rule 1 of the Original Side Rules praying for a judgment and decree directing the defendants:

(a) to pay a sum of Rs.8,96,89,683/- (Rupees Eight Crores Ninety Six Lakhs Eighty Nine Thousand Six Hundred and Eighty Three only) together with interest at 24% per annum on Rs.7,00,00,000/- (Rupees Seven Crores only) with quarterly rests from the date of plaint till date of payment to be realised inter alia by repossession and sale of the hypothecated assets and the pledged shares more particularly described in the Schedule 'A', 'B' and 'C' hereunder respectively;

(b) on the failure to recover the money through repossession and sale as referred to in prayer (a) above, direct the first and second defendants to pay the decree amount less the amount realised by repossession and sale as per prayer (a) and

(c) for costs of the suit.

For Plaintiff : Mr.Manoj Menon
for Mr.V.Nataraj

J U D G M E N T

The suit has been filed by the plaintiff seeking for a decree and

judgment directing the defendants



WEB COPY

(a) to pay a sum of Rs.8,96,89,683/- (Rupees Eight Crores Ninety Six Lakhs Eighty Nine Thousand Six Hundred and Eighty Three only) together with interest at 24% per annum on Rs.7,00,00,000/- (Rupees Seven Crores only) with quarterly rests from the date of plaint till date of payment to be realised inter alia by repossession and sale of the hypothecated assets and the pledged shares more particularly described in the Schedule 'A', 'B' and 'C' hereunder respectively;

(b) on the failure to recover the money through repossession and sale as referred to in prayer (a) above, direct the first and second defendants to pay the decree amount less the amount realised by repossession and sale as per prayer (a) and

(c) for costs of the suit.

2. Mr.Manoj Menon, learned counsel representing M/s.V.Natraj, S.Raghunathan and P.V.Sabaridas, learned counsel for the plaintiff would submit that the 1st defendant has been wound up and the 2nd defendant has been declared insolvent. The suit against the defendants 3 and 4 has already been dismissed by the learned Master on 14.10.2008.

3. It is therefore clear that nothing survives in the suit. I do not find any chance of success for the plaintiff and no purpose will be served by keeping the suit pending. The suit is therefore **dismissed** under Rule 3(a) of



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Order XIII A of the Code of Civil Procedure as amended by the Commercial Courts Act, 2015. No costs. Consequently the connected application is also closed.

Sd./-R.S.M.J
05.07.2021

List of the witnesses examined on the side of the plaintiff: Nil

List of Exhibits marked on the side of the plaintiff : Nil

List of the witnesses examined on the side of the defendants: Nil

List of Exhibits marked on the side of the defendants: Nil

Sd./-R.S.M.J
05.07.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.