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C.S.No.530 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2021

CORAM

THE HONOURABLE **MR.JUSTICE N.SESHASAYEE**

C.S.No.530 of 2011

Integrated Finance Company Limited
Rep by its Authorised Signatory
having its registered office at “R “10
IInd Floor, Prem Nagar Colony,
South Boag Road,
T.Nagar,
Chennai – 600 017.

... Plaintiff

Vs.

1.Business India
Rep by its Partner
Mr.Ashok Hotchand Advanci
14th Floor,
Nirmal Building,
Nariman Point,
Churchgate,
Mumbai – 400 021.

2.Mr.Ashok Hotchand Advani
Partner,
Business India,
21, Frameroze course,
Marine Drive,
Mumbai – 400 020.



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3.Mr.Rajkumar Hotchand Advani (deceased)

Partner

Business India,
Nirmal Building,
Nariman Point,
Churchgate,
Mumbai – 400 021.

(Third defendant is given up and memo recorded as per order dated 24.02.2021)

4.Mr.Hiroo Hotchand Advani,

partner

Business India,
Nirmal Building,
Nariman Point,
Churchgate,
Mumbai – 400 021.

...Defendants

Prayer: The Civil Suit has been filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of C.P.C. 1908, praying to pass a judgement and decree directing the defendant jointly and severally to pay the sum of Rs.21,88,11,451.96 along with the future interest @ 36% thereon from the date of Complaint till the date of realization and for costs.

For Plaintiff : Mr.Harishankar Mani

For Defendants : No Appearance

JUDGMENT

(This case has been heard through video conference)

The suit is laid for recovery of a sum of Rs.21,88,11,451.96 on a principal amount of Rs.95,60,420/- with interest thereon at 36% per annum.



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2.The case of the plaintiff briefly is that, it is a private financial institution that had entered into a Hire Purchase Agreement with the defendants dated 31.03.1998, in relation to certain machinery covered by an invoice dated 28.03.1998. As per the Hire Purchase Agreement, the defendants have to pay the hire purchase charges with interest in 20 monthly installment but the defendants defaulted. They have paid an amount of Rs.55.55 lakhs till 2009, which needless to mention, was paid at their convenience and not in accordance with the terms of the Hire Purchase Agreement. In this scenario, the present suit is laid.

3.The defendants remained ex-parte as they did not file their written statement. The matter was referred to the learned Additional Master for recording evidence.

4.For the plaintiff, the official of the plaintiff has been examined as P.W.1, through her Ex.P1 to Ex.P4 were marked. Of them, Ex.P2 is the invoice dated 28.03.1998 and Ex.P3 is the Hire Purchase Agreement dated: 31.03.1998 and Ex.P4 is the statement of accounts.



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5.Learned counsel for the plaintiff submitted that the interest was calculated as per the terms of the Hire Purchase Agreement. Even though the defendants have paid a sum of Rs.55.55 lakhs, the payment was not consistent with the terms of the Agreement viz. Ex.P3. After adjusting the said sum, both in the interest as well as the principal component payable in terms of the Hire Purchase Agreement, the Suit is laid for balance amount payable. He added that notwithstanding the fact that Ex.P3 vide clause 5(a) provides for seizure of machinery that was hired by the defendants. The plaintiff did not exercise its right.

6.The Court is satisfied. The suit is decreed with costs.

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kas /dk

Index : yes / no

Internet : yes / no

Speaking / Non speaking order



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APPENDIX

I. Witnesses :

<i>Plaintiff :</i>	
PW1	A.Hema Jothi
<i>Defendants : Nil</i>	

II. Exhibits :

<i>Plaintiffs :</i>		
Ex.P1	10.02.2015	The photocopy of Order of High Court, Madras, Authorizing, A.Hema Jothi dated 10.02.2015 (Original is produced, Compared and it is undertaken by the plaintiff that it can be produced as and when required)
Ex.P2	28.03.1998	The Original Invoice
Ex.P3	31.03.1998	The Original Hire Purchase Agreement dated 31.03.1998.
Ex.P4	18.03.2010	The Original Statement of Accounts

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