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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 06TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE V. PARTHIBAN

E.P.No.36 of 2020

and

O.A.No.743 of 2020

(Arising out of Foreign Arbitral
Award dated November 4, 2019
passed in the United Arab Emirates in
Claim No.5 of 2018)

E.P.No.36 of 2020 & O.A.No.743 of 2020

Engineering Maintenance Company (EMCO) LLC
Having its registered office at
P.O.Box 3532, Abu Dhabi,
United Arab Emirates (UAE)
Rep by its Authorized Signatory C. Saranya

..... Applicant/Petitioner

-Vs-

EDAC Engineering Limited,
Having its registered office at
No.97, Mount Road (Anna Salai),
Guindy, Chennai – 600 032.
And having its principal office at
No.88, Mount Road (Anna Salai),
Little Mount, Guindy, Chennai – 600 032.

... Respondents/Judgment-Debtor

E.P.No.36 of 2020

Execution Petition praying that this Hon'ble Court be pleased to

attachment and sale of shares as mentioned in the schedule hereunder under

<https://hcservices.ecourts.gov.in/hcservices/>

Order XXI Rule 43 of the Code of Civil Procedure, 1908 which shares are



held (morefully described in the Schedule) by the Respondent / Judgment Debtor in the following entities as disclosed by the last annual returns filed by the Respondent / Judgment Debtor before the Registrar of Companies.

O.A.No.743 of 2020

Original Application praying that this Hon'ble Court be pleased to pass an order of interim injunction restraining the Respondent / Judgment Debtor from transferring or alienating the shares owned and held by it and registered in its name in the companies mentioned in the schedule hereunder, pending disposal of the main execution petition.

This Execution Petition along with the Original Application coming on this day before this court for hearing in the presence of Mr.S.Aravindan for M/s. Fox Mandal & Associates, advocates for the decree holder in E.P.No.36 of 2020 and for the applicant in O.A.No.743 of 2020 and Mr.V.Suresh for M/s.Shivakumar and Suresh, advocates for the judgment debtor in E.P.No.36 of 2020 and for the Respondent in O.A.No.743 of 2020 and upon reading the Counter Affidavit of Mr.V.Balaji Pathak filed in O.A.743 of 2020 and the memo dated 05/08/2021 along with settlement agreement dated 19/04/2021 filed herein and the order herein



This petition has been filed to order the execution of the Foreign Arbitral Award dated November 14, 2019 passed in the United Arab Emirates in Claim No.5 of 2018, Abu Dhabi Court of Appeal as confirmed in the case No.14-2020 Appeal, Abu Dhabi Arbitration Procedures Request before the Abu Dhabi Court of Appeal – First Commercial Appeal Circuit by attachment and or sale of shares owned/held by the respondent in the companies more fully mentioned in the schedule to the Execution Petition.

2. When the matter is taken up for hearing, the learned counsel for the petitioner submitted that a settlement agreement dated 19.04.2021, has been entered into between the contesting parties and a copy of the same is enclosed along with the memo dated 05.08.2021. The contents of the memo are extracted hereunder:

**“MEMO FILED ON BEHALF OF THE
DECREE HOLDER**

1. It is submitted that the above execution petition filed by the decree holder for enforcement of foreign award against the judgment debtor was for a sum of INR 22,13,17,162 (Indian Rupees Twenty Two Crores Thirteen Lakhs Seventeen Thousand One Hundred and Sixty-Two).



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2. *It is submitted that the Decree Holder also filed sought for interim relief for an order of injunction, viz., O.A. No. 743 of 2020, restraining the Judgment Debtor from transferring or alienating the shares owned and held by it in various entities. This Hon'ble Court vide an order dated 21.12.2020 passed an order of interim injunction as sought for by the Decree Holder.*

3. *It is submitted that the Judgment Debtor after taking notice of the above order, approached the Decree Holder and expressed its interest to amicably settle the dispute between the parties. After multiple discussions and deliberations between the parties, the Decree Holder and the Judgment Debtor executed a Settlement Agreement dated 19.04.2021 ("Settlement Agreement"), wherein the parties agreed to settle all their disputes (previous, current, and future claims, rights and demands) arising out of the Joint Venture Agreements upon payment of AED 7,750,000 (United Arab Emirates Dirhams Seven Million Seven Hundred and Fifty Thousand only). The terms of the settlement amount under the Settlement Agreement are as below:*

- a. AED 3,875,000 (United Arab Emirates Three Million Eight Hundred and Seventy Five Thousand only) to be paid on or before 27.04.2021 by the Judgment Debtor; and*
- b. AED 3,875,000 (United Arab Emirates Three Million Eight Hundred and Seventy Five Thousand only) to be paid on or before 15.07.2021 by the Judgment Debtor.*



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4. It is submitted that the Judgment Debtor paid the first installment on 26.04.2021 and the second installment on 28.07.2021.

5. In light of the above, the Decree Holder has been fully satisfied of the settlement amount paid by the Judgment Debtor under the Settlement Agreement. The Decree Holder craves leave of this Hon'ble Court to treat the Settlement Agreement as part and parcel of this memo. The Settlement Agreement is enclosed herewith."

3. The learned counsel appearing for the petitioner has requested this Court to dispose of this petition in terms of the settlement agreement dated 19.04.2021 filed along with the memo dated 05.08.2021.

4. The memo filed by the petitioner is taken on record. Accordingly, this execution petition stands disposed of in terms of the above referred settlement. No costs. Consequently, connected application is closed.

(Schedule)

(Memo along with Settlement agreement)



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17.09.2021

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E.P.No.36 of 2020

and

O.A.No.743 of 2020

ORDER

DATED : 06.08.2021

THE HON'BLE MR. JUSTICE
V. PARTHIBAN

FOR APPROVAL: 12.10.2021

APPROVED ON: 18.10.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2021

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THE HON'BLE Mr. JUSTICE V.PARTHIBAN

E.P.No.36 of 2020 and
O.A.No.743 of 2020

Engineering Maintenance Company (EMCO) LLC
Having its registered office at
P.O.Box 3532, Abu Dhabi,
United Arab Emirates (UAE),
Rep by its Authorized Signatory C.Saranya

... Petitioner

Vs.

EDAC Engineering Limited,
Having its registered office at
No.97, Mount Road (Anna Salai)
Guindy, Chennai 600 032,
and having its principal office at
No.88, Mount Road (Anna Salai)
Little Mount, Guindy, Chennai 600 032.

... Respondent

Prayer : Petition filed under Section 44-A read with Order XXI Rules 11(2) and 43 of the Code of Civil Procedure, 1908, to order the execution of the Foreign Arbitral Award dated November 14,2019 passed in the United Arab Emirates in Claim No.5 of 2018, Abu Dhabi Court of Appeal as confirmed in the case No.14-2020 Appeal, Abu Dhabi Arbitration Procedures Request before the Abu Dhabi Court of Appeal – First Commercial Appeal Circuit by attachment and or sale of shares owned/held by the respondent in the



companies more fully mentioned in the schedule to the Execution Petition.

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For Petitioner :Mr.S.Aravindan

For Respondent :Mr.V.Suresh for
Mr.Shivakumar and Suresh

ORDER

This petition has been filed to order the execution of the Foreign Arbitral Award dated November 14,2019 passed in the United Arab Emirates in Claim No.5 of 2018, Abu Dhabi Court of Appeal as confirmed in the case No.14-2020 Appeal, Abu Dhabi Arbitration Procedures Request before the Abu Dhabi Court of Appeal – First Commercial Appeal Circuit by attachment and or sale of shares owned/held by the respondent in the companies more fully mentioned in the schedule to the Execution Petition.

2. When the matter is taken up for hearing, the learned counsel for the petitioner submitted that a settlement agreement dated 19.04.2021, has been entered into between the contesting parties and a copy of the same is enclosed along with the memo dated 05.08.2021. The contents of the memo are extracted hereunder:



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“MEMO FILED ON BEHALF OF THE
DECREE HOLDER

1. It is submitted that the above execution petition filed by the decree holder for enforcement of foreign award against the judgment debtor was for a sum of INR 22,13,17,162 (Indian Rupees Twenty Two Crores Thirteen Lakhs Seventeen Thousand One Hundred and Sixty-Two).

2. It is submitted that the Decree Holder also filed sought for interim relief for an order of injunction, viz., O.A. No. 743 of 2020, restraining the Judgment Debtor from transferring or alienating the shares owned and held by it in various entities. This Hon'ble Court vide an order dated 21.12.2020 passed an order of interim injunction as sought for by the Decree Holder.

3. It is submitted that the Judgment Debtor after taking notice of the above order, approached the Decree Holder and expressed its interest to amicably settle the dispute between the parties. After multiple discussions and deliberations between the parties, the Decree Holder and the Judgment Debtor executed a Settlement Agreement dated 19.04.2021 ("Settlement Agreement"), wherein the parties agreed to settle all their disputes (previous, current, and future claims, rights and demands) arising out of the Joint Venture Agreements upon payment of AED 7,750,000 (United Arab Emirates Dirhams Seven Million Seven



Hundred and Fifty Thousand only). The terms of the settlement amount under the Settlement Agreement are as below:

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4. It is submitted that the Judgment Debtor paid the first installment on 26.04.2021 and the second installment on 28.07.2021.

5. In light of the above, the Decree Holder has been fully satisfied of the settlement amount paid by the Judgment Debtor under the Settlement Agreement. The Decree Holder craves leave of this Hon'ble Court to treat the Settlement Agreement as part and parcel of this memo. The Settlement Agreement is enclosed herewith."

3. The learned counsel appearing for the petitioner has requested this Court to dispose of this petition in terms of the settlement agreement

dated 19.04.2021 filed along with the memo dated 05.08.2021.



4. The memo filed by the petitioner is taken on record.

Accordingly, this execution petition stands disposed of in terms of the above referred settlement. No costs. Consequently, connected application is closed.

Sd./- V.P.J
06.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 06TH Day of August 2021 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.