

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 4TH DAY OF MARCH 2021

THE MASTER

E.P.No.188 of 2018

In the matter of Arbitration out of agreement No.155/CN/97 dated 30.04.1997 for the work of “gauge conversion between Madras Beach to Tiruchirapalli-proposed regarding of existing MG track Between Vridhachalam and Ariyalur Stations-Reach III & Reach IV.

M/s.Raghavendra Constructions Co.,
23-A, Poonamalle High Road,
Near Ambedkar Circle, Koyambedu,
Chennai-600 107.

..Decree Holder/Claimant

Versus

1.The General Manager,
Southern Railway, Park Town,
Chennai 600 003.

2.The Deputy Chief Engineer,
Gauge Conversion, Vridhachalam,
Now at Thruchirapalli.

..Judgement Debtors/Respondents

Execution Petition praying that this Hon'ble Court be pleased to direct the Judgement Debtor to pay the amount of a sum of Rs.1,87,26,198.73 along with interest at the rate of 18% on Rs.69,05,638.15

till date of actual realization under order XXI Rule 43 C.P.C. If the Judgment Debtor fail to make such payment, an order of attachment and sale of the Judgement Debtor's Schedule of properties be ordered.

This Execution Petition coming on this day before this court for hearing the court made the following order:-

This execution petition has been filed by the Decree Holder/Claimant seeking direction to pay the claim amount of Rs.1,87,26,198.73 along with interest failing which an order of attachment and sale of the Judgment Debtors schedule property shall be ordered. It is the contention of the Decree Holder/Claimant that as per the award passed by the Arbitrator on 12.03.2009, the Judgment Debtors are liable to pay a sum of Rs.1,87,26,198.73 and the amount has not been paid by the Judgment Debtors/Respondents. Subsequently, the Decree holder/Claimant filed a memo of calculation dated 25.09.2019 stating that Rs.4,26,71,078.57 is due and payable to the Decree Holder/Claimant. The Judgment Debtors/Respondents have objected to the contentions of the Decree Holder/Claimant stating that as per order of Hon'ble High Court of Madras and Hon'ble Supreme Court of India, the amount payable to the Claimant i.e. Rs.1,87,26,198.73 has been paid by the Railway to the Claimant and in

fact interest has been calculated till date of payment which comes upto Rs.2,21,21,913/ and the payment has been made through RTGS transfer to the Claimant Account No.802420110000716 on 12.09.2019. Thus, the Respondents have already complied the order of Hon'ble High Court and Hon'ble Supreme Court by paying the due amount including interest and so this execution petition may be dismissed.

Heard both sides. Case records perused. It transpires that as per order of Hon'ble High Court of Madras and Hon'ble Supreme Court of India, the Respondents have paid the decretal amount to the Decree Holder/Claimant along with the interest calculated till date of payment i.e. 2,21,21,913/- through RTGS transactions on 12.09.2019 itself. Subsequently, the claimant has filed a fresh memo of calculation claiming Rs.4,26,71,078.57, which is not the order of the Tribunal or order of the High Court. It is seen that the Claimant/Decree Holder has calculated interest to interest and has arrived at such an exorbitant amount. This Court is of the considered opinion that the Claimant has miscalculated by claiming cumulative interest which is against the order of the Tribunal. Thus, the memo of calculation dated 25.09.2019 filed by the Award holder is hereby rejected. In such position, since the Respondents have credited Rs.2,21,21,913/- including interest for the period from date of filing to date of credit, nothing survives in this matter and this execution petition is liable to be terminated.

Accordingly, Execution petition is terminated. No costs.

Sd./-MASTER
04/03/2021

//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.

JJ 22/11/2021