



A.S.No.398 OF 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2023

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

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M/s.FIREPRO SYSTEMS PVT. LTD.,
Represented by its Managing Director,
Ispahani Centre, level III, No.123, 124,
Nungambakkam High Road,
Chennai-600 034.

... Appellant

Vs.

M/s.Zion Engineering,
Rep. by its Proprietor,
G.Daniel Sanjay,
No.19, Reshma Complex,
Hospital Road, New Century Colony,
Ambattur, Chennai-600 058.

...Respondent

PRAYER: Appeal Suit is filed under Section 96 of CPC against the judgment and decree dated 05.07.2017 passed in O.S.No.5932 of 2013 on the file of the XVIII Additional Judge, City Civil Court, Chennai.

For Appellant : Mr.Santosh Ukkur

For Respondent : Mr.M.Muthu Periyasamy



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JUDGMENT

The Appeal suit is filed against the judgment and decree dated 05.07.2017 passed in O.S.No.5932 of 2013 on the file of the XVIII Additional Judge, City Civil Court, Chennai.

2. The learned counsel for the appellant submitted that this matter has been settled out of court in which a joint memorandum of compromise settlement is filed. The same is extracted hereunder:

"1. It is submitted that the Respondent had entered into a Sub-Contract dated 15.12.2010, having Project Code P-030, with FirePro for installing Hydrant and Sprinkler Systems at FirePro's Client's premises viz., "M/s.Sinclairs Hotel" at Ooty, TamilNadu.

2. It is submitted that certain disputes arose between the Appellant and Respondent with respect to the certain payment outstanding, release of tools and equipment, etc., under the aforesaid Sub-Contract. The said disputes resulted in the Respondent filing a suit in O.S.No.5392 of 2013, on the file of the Hon'ble XVIII Additional City Civil Court, Chennai.



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3. It is submitted that by a Judgement and decree dated 05.07.2017, the said Hon'ble City Civil Court was pleased to decree the suit as prayed for. Aggrieved by the said Decree, the Appellant had preferred an Appeal in A.S.No.398 of 2017, on the file of this Hon'ble High Court, Madras. On 02.07.2018, this Hon'ble High Court was pleased to grant an order of interim stay of operation of the above Decree dated 05.07.2017, with a direction to the Appellant to deposit a sum of Rs.5 lakhs to the credit of the said suit.

4. It is submitted that as directed by the Hon'ble High Court, the Appellant had deposited the said sum of Rs.5 Lakhs to the credit of the said Suit and in the name of the "The Registrar, City Civil Court, Chennai". On reporting the above compliance, this Hon'ble High Court was pleased to make the above order of interim stay as absolute.

5. It is submitted that the titled A.S.No.398 of 2018 came up before this Hon'ble Court on 31.08.2023. Both the parties



appeared. The Hon'ble Court suggested to pay Rs.15 lakhs as settlement to the Respondent by the Appellant. The counsel for the Appellant sought further time to discuss with the Appellant and come out with the outcome on the next hearing date. Then the Hon'ble Court was pleased to post the matter on 07.09.2023 for further proceedings.

6. It is submitted that thereafter, the titled Appeal came on 08.09.2023. In the meantime, negotiations took place between the Appellant and the Respondent. Finally, it was mutually agreed by both the parties that in full and final settlement of all its claim against the Appellant, the Respondent would receive a sum of Rs.12.50 lakhs, by Demand Draft in the name of Mr.Daniel Sanjay, the Proprietor of the Respondent and that both the parties would file a Joint Memo of Compromise Settlement and request this Hon'ble Court to pass an order in accordance with the Joint Memo of Compromise Settlement filed.

7. It is submitted that in accordance with the aforesaid mutual compromise settlement the Appellant has tendered a



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Demand Draft bearing No.542106 dated 10.10.2023 drawn by ICICI Bank, Indiranagar Branch for Rs.12.50 lakhs (Rupees Twelve Lakhs and Fifty Thousand Only) in the name of "G.Daniel Sanjay", payable at ICICI Bank, Chennai Main Branch, Chennai. The respondent hereby acknowledges the receipt of the said Demand Draft in full and final settlement of all its claims, claimable in terms of the judgment/decreed dated 05.07.2017 passed by Hon'ble XVIII Additional City Civil Court, Chennai in O.S.No.5932 of 2013. The respondent further affirms that it does not have any other claim of whatsoever nature against the Appellant. So also the Appellant submits that it has paid the aforesaid sum to the Respondent in full and final settlement of the Respondent's claims arising out of the said OS and it also affirms that it does not have any other claim of whatsoever nature claimable against the Respondent, pursuant to the said OS and /or the titled A.S.No.398/2018.

8. It is submitted that the Respondent further affirms that it does not have any objection in the Appellant withdrawing the



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sum of Rs.5 lakhs deposited by it with the Hon'ble XVIII Additional City Civil court, Chennai deposited by it in compliance of the order dated 02.07.2018 passed by this Hon'ble Court in the titled Appeal.

9. It is therefore, prayed by both the Appellant and the Respondent that in view of the said Compromise, this Hon'ble Court may be pleased to take this Joint Memorandum of Compromise Settlement on record, dismiss the titled A.S.No.398 of 2018 as settled out of court."

3. As per the Joint Memorandum of Compromise Settlement, amount has been paid and the same was duly received. However, at the time of granting interim order this Court directed the appellant to deposit a sum of Rs.5,00,000/- to the credit of the suit. Therefore, the appellant is permitted to withdraw the said sum with accrued interest, if any, lying in O.S.No.5932 of 2013 on the file of the XVIII Additional City Civil Court, Chennai. The Joint Memorandum of Compromise Settlement dated 10.10.2023 shall form part and parcel of this order.



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4. Accordingly, this Appeal suit is closed. There shall be no order as to costs.

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Index : Yes / No
Internet : Yes / No
Speaking order /Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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