



C.M.P.No.7400 of 2023
in C.M.A.No.2860 of 2013

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KRISHNAN RAMASAMY, J.

This application has been filed by the petitioner praying to order Payment Out of a sum of Rs.58,81,534/- as per the Certificate of Funds issued by this Court dated 10.01.2023 along with accrued interests in the name of M/s.P.Samiappa Gounder and Bros.

2. The learned counsel for the petitioner submitted that the first respondent filed Arb.O.P.Nos.61 & 62 of 2005 respectively before the Principal District Court, Coimbatore, seeking to set aside the award dated 29.09.2004 passed by the second respondent (Sole Arbitrator). The learned Principal District Judge, Coimbatore vide its order dated 19.10.2012 allowed the said Arb.O.Ps respectively and remanded the matters back to the learned Arbitrator for fresh disposal. Aggrieved over the same, the petitioner has filed Civil Miscellaneous Appeal Nos.2860 & 2861 of 2013 separately before this Court, seeking to set aside the order dated 19.10.2012 passed by the learned Principal District Judge, Coimbatore in Arb.O.P.Nos.61 & 62 of 2005 respectively. This Court vide its common judgment dated 18.08.2017 allowed the said CMAs and restored the award dated 29.09.2004 passed by the second respondent (Sole Arbitrator).



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2.1. Challenging the judgment dated 18.08.2017 passed in C.M.A.Nos.2860 & 2861 of 2013, the first respondent filed two Special Leave Petitions in SLP (Civil) Nos.17489 & 17490 of 2019 before the Hon'ble Supreme Court. On 19.10.2022, the Hon'ble Supreme Court has disposed the Civil Appeal Nos.7675 & 7676 of 2022 [SLP (Civil) Nos.17489 & 17490 of 2019] by observing as follows:

“One other aspect which requires to be clarified with regard to the payment of interest is that this Court while directing the notice to the respondent had permitted the appellant to deposit a sum of Rs.50 Lakh which is stated to have been deposited before the High Court on 13.09.2019. The said amount, in any event would have been kept in a fixed deposit in the bank which would have earned some interest. While, therefore, calculating the interest in the manner as indicated above the interest from 13.09.2019 till the date of payment paid by the Bank and accrued on the deposit, shall in any event be deducted and the appropriate calculation be made.

On such calculation the balance amount shall be paid by the appellant to the respondent(s) within a period of six weeks from the date of receipt of the copy of this order. The respondent will now be entitled to withdraw the amount in deposit in the High Court.

In terms of the modification relating to the interest as indicated above, the appeals stand disposed of.”



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2.2. The learned counsel further submitted that in the above order, the Hon'ble Apex Court observed that the first respondent shall pay the balance amount to the petitioner, within a period of six weeks from the date of receipt of that order and also, observed that the petitioner is entitled to withdraw the amount which has already been deposited by the first respondent in this Court. As on 10.01.2023, the total amount lying in the Fixed Deposit Account, to the credit of SLP (Civil) Diary No.24321 of 2019 and SLP to (Civil) Nos.17489 & 17490 of 2019 in C.M.A.No.2860 & 2861 of 2023, with the Indian Bank, Madras High Court Branch, Chennai is Rs.58,81,538/- (includes interest at the rate of 6.1% per annum). The proof of Certificate of Funds is also available at page no.16 of the typed set of documents filed by the petitioner.

3. On 10.07.2023, when this petition came up for hearing, Mr.P.Harish, learned Government Advocate has taken notice on behalf of the first respondent and sought time to get appropriate instructions from his client. However, today, when this petition was taken up for consideration, the learned Government Advocate is not able to defend the first respondent since the Hon'ble Supreme Court vide its order dated 19.10.2022 in Civil Appeal Nos.7675 & 7676 of 2022 in SLP (Civil) Nos.17489 & 17490 of 2019 has confirmed the judgment dated 18.08.2017 passed by this Court in C.M.A.Nos.2860 & 2861 of 2013 and further, it has observed that the petitioner is entitled to withdraw the amount which has already been deposited by the first respondent in this Court.



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4. Considering the submissions made by the learned counsel for the petitioner, this Court is inclined to allow this petition. Accordingly, this Civil Miscellaneous Petition is allowed and the petitioner is permitted to withdraw a sum of Rs.58,81,534/- (Rupees Fifty Eight Lakhs Eighty One Thousand Five Hundred and Thirty Four only) lying in the Fixed Deposit Account, to the credit of SLP (Civil) Diary No.24321 of 2019 and SLA (Civil) Nos.17489 & 17490 of 2019 in C.M.A.No.2860 & 2861 of 2023, with the Indian Bank, Madras High Court Branch, Chennai, along with the accrued interest thereof. Registry is directed to issue the Payment Out order in the name of M/s.P.Samiappa Gounder and Bros. to the petitioner, within a period of three weeks from the date of receipt of a copy of this order.

13.07.2023

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KRISHNAN RAMASAMY, J.

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