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C.M.P.No.20751 of _____
O.S.A.No.264 of 2018

C.M.P.No.20751 of 2022
in
O.S.A.No.264 of 2018

R.MAHADEVAN, J.
and
T.V.THAMILSELVI, J.

[Order of the Court was made by T.V.THAMILSELVI, J.,]

This petition has been filed to modify the order dated 28.04.2022 in CMP.No.7208 of 2022 and direct the original Bank Guarantee bearing No.01/2011-12 dated 06.04.2011 to be endorsed by the Registrar General of this Hon'ble Court and the same be returned to the 4th respondent Bank with a direction to the 4th respondent / Bank to pay the present petitioner the proceeds of the Fixed Deposit Nos.744827321, 744826995, 744827401, 874564188, 914336625 and 6214651016 for a sum of Rs.35,18,880/- along with interest accrued thereon.

2. The petitioner herein is the respondent in O.S.A.No.264 of 2018, which was filed by the respondents 1 to 3 herein and the said appeal was dismissed on 06.01.2022, in which, the rate of interest was reduced from 18% to 9 % p.a. for the principal amount of Rs.35,00,000/-. In fact, the applicant herein / plaintiff has filed a suit in C.S.No.601 of 2009 for recovery of Rs.35 lakh with interest from the respondents 1 to 3. The said suit was decreed in favour of the plaintiff against



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3. At that time, this Court directed the respondents 1 to 3 to furnish a Bank Guarantee for the said principal amount and the same was complied with by them, by furnishing a Bank Guarantee No.01/2011-12 dated 06.04.2011. But, the said Bank Guarantee was deposited with Registrar General of this Court and till date it is in his custody. The Bank Guarantee was created based on a security provided to the Bank for which the respondent 1 to 3 created Fixed Deposit Nos. 744827321, 744826995, 744827401, 874564188, 914336625 and 6214651016 with the Indian Bank, Teynampet Branch on different dates for a consolidated sum of Rs.35,18,880/-.

4. As per original decree in C.S.No.601 of 2009, the petitioner is entitled for the entire principal amount with interest at the rate of 9% p.a., lying with hands of the Indian Bank, in the form of Fixed Deposits, on the strength of which, the Bank Guarantee was created. It is in the possession of the Registrar General and therefore the respondents 1 to 3 filed CMP.No.7208 of 2022 seeking a direction to the Registrar General of this Court to endorse and hand over the original Bank Guarantee to the petitioner herein and the same was allowed by this Court. But, instead of directing the Registrar General to endorse the Bank Guarantee, this Court inadvertently passed an order, to endorse the Fixed Deposits. Hence, the petitioner has come forward with this petition to modify the said order.



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5. Heard, Mr.M.V.Swaroop, learned counsel for the petitioner and Mr.Srinath Sridevan learned counsel for the respondents 1 to 3 and Mr.Akil Akbar Ali learned counsel on the side of the 4th respondent and perused the materials available on record.

6. It is true that the Registrar General is holding the Bank Guarantee and not Fixed Deposits, when the order dated 28.04.2022 was passed by this Court. However, the Fixed Deposits were sent to the Registrar General of this Court by the Bank vide letter dated 20.12.2022 with a request to (i) return the original bank guarantee issued by the branch duly discharged ; and (ii) issue a letter stating that bank is fully discharged from the liabilities so assumed by the issue of Bank Guarantee. In fact, the Bank Guarantee expired long back. Thus, the modification sought for by the petitioner as such is maintainable.

7. Accordingly, the Original Bank Guarantee bearing No.01/2011-12 dated 06.04.2011 is hereby directed to be endorsed by the Registrar General of this Court and the same may be returned to the 4th respondent / Bank within a period of one week from the date of receipt of a copy of this order. Since this Court today passed an order in CMP No.13862 of 2023 directing the 4th respondent / Bank to pay the proceeds of the Fixed Deposits Receipts bearing Nos.744827321, 744826995, 744827401, 874564188, 914336625 and 6214651016 to the



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petitioner, the Registrar General is also directed to return those Fixed Deposits Receipts to the Bank within a period of one week from the date of receipt of a copy of this order.

8. Accordingly, this Civil Miscellaneous petition is allowed.

(RMDJ) (TVTSJ)
14.07.2023

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Dated:14.07.2023