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C.S.(Comm.Div.)No.5 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.S.(Comm.Div.)No.5 of 2023

and

A.Nos.163 and 168 of 2023

M/s. Southern Motorcycles,
a Registered Partnership Firm,
Represented by its Partner,
Manjit Singh Nayar,
8C, State Bank Street, Mount Road,
Anna Salai, Chennai – 600 002.

... Plaintiff

Vs

1.Mr.S.Naseer Khan,
No.12, Subethar Hussain Street,
Border Thottam, Royapettah,
Chennai – 600 014.

2.Mr.Shahul Hameed,
No.12, Subethar Hussain Street,
Border Thottam, Royapettah,
Chennai – 600 014.

3.M/s.City and Company,
A Partnership firm,
Represented by its Partners,
S.Naseer Khan and Shahul Hameed,
No.7/4, V.N.Doss Road,
Mount Road, Chennai – 600 002.

... Defendants



C.S.(Comm.Div.)No.5 of 2023

Prayer: This Civil Suit is filed under Order IV Rule 1 of the Original Side Rules read with Order XXXVII Rule 1 of the Code of Civil Procedure, 1908 read with Section 7 and 12 of the Commercial Courts Act, 2015, prayed for a Judgment and Decree:-

a) directing the defendants to pay jointly and severally a total sum of RS.1,27,94,604.04/- (Rupees One Crore Twenty-Seven Lakhs Ninety-Four Thousand Six Hundred and Four and Four Paise Only) consisting of Rs.86,29,434/- (Rupees Eighty-Six Lakhs Twenty-Nine Thousand Four Hundred and Thirty-Four Only) as the principal due and Rs.41,65,170.04/- (Rupees Forty-One Lakhs Sixty-Five Thousand One Hundred and Seventy and Four Paise Only) as interest respectively at 15% per annum on the Principal sum as on 31.10.2022;

b) directing the defendants to jointly and severally pay future interest at 15% per annum from the date of plaint till realization of the principal sum i.e., Rs.86,29,434/-;

c) the costs of this suit.

For Plaintiff : Mr.H.Karthik Seshadri

For Defendants : Mr.Abhinav Parthasarathy



C.S.(Comm.Div.)No.5 of 2023

JUDGMENT

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Today when the matter is taken up for hearing, the learned Counsel for the plaintiff and the defendants have filed a Memorandum of Compromise recording the satisfaction of the suit claim and the settlement of *inter se* suit between the plaintiff and the defendants.

2. The Memorandum of Compromise dated 29.01.2023 had been signed by the Plaintiffs and the Defendants. It has also been signed by the learned Counsel for the plaintiff and the defendants.

3. The terms of the Memorandum of Compromise are as follows:-

“1.The Defendants acknowledge and agree that they are due and owing the plaintiff the sum of Rs.86,29,434/- towards principal and Rs.41,65,170.04/- towards interest, totaling a sum of Rs.1,27,94,604.04/- (Rs.One Crore Twenty Seven Lakhs ninety four thousand six hundred and four and paise four only) as of 31.10.2022 and seek time to repay the same to the plaintiff. Plaintiff is agreeable to provide this time and not claim further interest,



WEB COPY



C.S.(Comm.Div.)No.5 of 2023

subject to the fulfillment of the conditions below.

2. The Defendants jointly and severally undertake to pay the aforesaid sum of Rs.1,27,94,604.04/- to the Plaintiff on or before 31.07.2023 (31st July 2023).

3.The Defendant No.1 as the absolute owner of the Schedule Property has deposited the original title deeds in respect of the Schedule Property with the Plaintiff as a security to fulfill their obligation to repay the amounts undertaken to be paid by them as aforesaid. Defendants further undertake that they shall not sell/mortgage/encumber the Schedule Property in any manner without the express written consent of the Plaintiff and undertake to pay the dues outstanding to the plaintiff first.

4.Defendants agree that in the event of default in paying the sum undertaken to the plaintiff, as above, on or before 31.07.2023, the plaintiff shall be entitled to claim interest at the rate of 15% per annum on Rs.1,27,94,604.04 from 31.10.2022 till date of realization along with all the costs associated in the filing of the suit and in execution of this decree.

5.Furthermore, the Plaintiff shall be entitled to without prejudice to other rights, execute this



WEB COPY



C.S.(Comm.Div.)No.5 of 2023

Compromise Decree by bringing the Schedule property to Sale forthwith without any further notice to the Defendants and adjust the sale proceeds against the sum outstanding to the plaintiff.”

4. Since both the parties have agreed to the terms of Memorandum of Compromise, the same is recorded and accordingly this Civil Suit is decreed. No costs. The Joint Memo of Compromise shall form part of the decree. Considering the fact, the order refund of the Court Fee in terms of Section 69 A of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955. Registry is therefore directed to refund the Court Fee to the Plaintiffs after due adjustments, in accordance with the Rules. Consequently, connected applications are closed.

08.02.2023

Internet : Yes / No

Index : Yes / No

Speaking Order/Non-Speaking Order

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WEB COPY



C.S.(Comm.Div.)No.5 of 2023

C.SARAVANAN, J.

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C.S.(Comm.Div.)No.5 of 2023
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