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*O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

CORAM

THE HON'BLE MR. JUSTICE M. SUNDAR

AND

THE HON'BLE MRS. JUSTICE K. GOVINDARAJAN THILAKAVADI

O.S.A. Nos. 214 & 264 of 2020

&

C.M.P. No. 10734 of 2020

in

O.S.A. No. 214 of 2020

O.S.A. No. 214 of 2020

Indian Overseas Bank
Royapuram Branch
represented by its Branch Manager,
62/153 and 63/155,
Mannarswamy Koil Street,
Royapuram,
Chennai – 600 013.

..Appellant

Vs.

Suryadev Alloys and Power Private Limited,
represented by its Authorised Signatory and
Chief Financial Officer, Mr.Muzaffer Ahmed,
497 & 498, 8th Floor, Isana Building,
P.H. Road, Arumbakkam,
Chennai – 600 106.

..Respondent

Prayer: Original Side Appeal under Order XXXVI Rule 1 of Original



*O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020*

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Side Rules read with clause 15 of Letters Patent as against the judgment and decree dated 11.12.2019 passed in C.S.(Comm.Div.)No. 1 of 2019.

For Appellant :: Mr. Aashish Dafaria

For Respondent :: Mr.K. Gowtham Kumar

O.S.A. No. 264 of 2020

Suryadev Alloys and Power Private Limited,
represented by its Authorised Signatory and
Chief Financial Officer, Mr.Muzaffer Ahmed,
497 & 498, 8th Floor, Isana Building,
P.H. Road, Arumbakkam,
Chennai – 600 106.

..Appellant

Vs.

Indian Overseas Bank
represented by its Branch Manager,
62/153 and 63/155,
Mannarswamy Koil Street,
Royapuram, Chennai – 600 013.

..Respondent

Prayer: Original Side Appeal under Order XXXVI Rule 1 of Original
Side Rules read with clause 15 of Letters Patent as against the judgment and
decree dated 11.12.2019 passed in C.S.(Comm.Div.)No. 1 of 2019.

For Appellant :: Mr.K. Gowtham Kumar



O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020

For Respondent :: Mr. Aashish Dafaria

COMMON JUDGMENT

*(Delivered by **M. SUNDAR,J.**)*

Captioned 'Original Side Appeals' ['O.S.A.s' in plural and 'O.S.A.' in singular] and captioned 'Civil Miscellaneous Petition' ['C.M.P.' for the sake of brevity and convenience] in one of the captioned O.S.As are listed under the cause list caption 'FOR REPORTING SETTLEMENT/ARGUMENTS'.

2. Mr.K. Gowtham Kumar, learned counsel on record for 'Indian Overseas Bank' ['IOB' for the sake of brevity and convenience] and Mr.Aashish Dafaria, learned counsel on record for 'Suryadev Alloys and Paper private limited' (hereinafter 'Suryadev' for the sake of brevity, convenience and clarity) are before this Court.

3. Both learned counsel submit that the lis has been settled out of Court as between the parties and therefore, they have instructions to give closure to captioned O.S.As. by withdrawing the same. Saying so, learned counsel have made endorsements in the respective appeals as well as in



*O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020*

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C.M.P. No.10734 of 2020 in O.S.A. No.214 of 2020. A scanned reproduction of the three endorsements is as hereunder:



O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020

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may be permitted
to withdraw
the appeal
O.S.A. (CAD) NO. 214/2020

[Signature]
Counsel for
Appellant
permitted
29/6/24
(AASHISH DAFARIA)

20

Filed on 29-7-2020
HC-12/8/2000

IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(Appellate Jurisdiction) Comm

O.S.A. (CAD) NO. 214 OF 2020
Against
C.S. (Comm Div.) No. 1 of 2019

Indian Overseas Bank
...Appellant

vs

Suryadev Alloys and Power
Private Limited
...Respondent

**MEMORANDUM OF GROUNDS
OF ORIGINAL SIDE APPEAL**

RECEIVED
19 AUG 2020
COUNSEL FOR THE APPELLANT
EDWARD JAMES
AASHISH DAFARIA

MS. CYRI AMARCHAND
MANGALDAS,
ADVOCATES & SOLICITORS,
2ND FLOOR, ASV CHAMBERS
SQUARE, 87/48, CHAMBERS ROAD,
CHENNAI - 600 028.

B-60
Def-37A7.800
24/6/20
29/7/2020
K2677
28977



O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020

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may be
presented
to
in Madras
the
Mand
Daf
Counsel for
Appellant
25/12/24

IN THE HIGH COURT OF
JUDICATURE AT MADRAS

(Appellate Jurisdiction)
C.M.P. 10734/20

O.S.A. (CAD) NO. 214 OF 2020

Against

C.S.(Comm Div.) No. 1 of 2019

India Overseas Bank

Appellant

Vs

Services Alloy and Power

Private Limited

Respondent

52679
29/12/2020
JUDGES SUMMONS
19 DEC 2020
A.P.
COUNSEL FOR THE APPELLANT
EDWARD JAMES
AASHISH DAFARIA

M/S. CYRIL AMARCHAND
MANGALDAS

ADVOCATES & SOLICITORS
2ND FLOOR, ASV CHAMBERS
SQUARE, 87/48, CHAMBERS ROAD,
CHENNAI - 600 028,
TAMIL NADU



O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020

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grants 60 days to file appeal.

Since the certified copy was obtained on 17.12/20, and the Supreme court order on limitation is effective from 13/3/20, no delay is attracted. Another appeal filed by the Respondents against the same impugned judgement (OSA 214/20) has been numbered without delay.

O.S.A. No. 264 of 2020

SURYADEV ALLOYS AND POWER PRIVATE LIMITED,

... Appellant

-Vs-

1. Distances with Service Co-Operative Society Ltd. 20 Comp. 12
INDIAN OVERSEAS BANK, RESERVE BANK OF INDIA
... Respondent



60415
15/12/2020
FR 306005
Scanned by
and run
for

Attibb

Counsel for Appellant

MEMORANDUM OF
GROUNDS OF APPEAL

Deficit of Rs 18,27,369/- has been Paid through RTGS Proof filed



D.C.F - 1827369

D.C.F
Supreme court
order 15.3.20
Last down
11.12.20
Noted

Deficit	CF	2000	Add. CF
18,27,369	10	18,27,369	
Barth	30		
Delay	20		
D/w	20		
Order	20		
Jud	20		
E.C.F	21		
Paid	21		

MSRICHARAN RANGARAJAN Ms 1737/2006

K.COWTHAM KUMAR Ms 1405/2007

ATHIBAN VIJAY AK Ms 1953/2016

RUKMANI VENUGOPALAN

COUNSEL FOR APPELLANT

9365139138

athiban.vijay@gmail.com

The counsel for appellant humbly prays for dismissal of above OSA as being withdrawn since the dispute is settled out of court.

25/12/2020
K.COWTHAM KUMAR
Ms 1405/07



O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020

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4. Before we write the concluding portion of this judgment, there is no disputation as between the learned counsel before us that a sum of Rs.8 crores is lying to the credit of captioned appeals by way of Fixed Deposits in the name of learned Registrar General of this Court. Both learned counsel make a joint request that the same can be paid out without going through the procedure of separate payment out application.

5. In the light of common/joint request made, there shall be a direction for payment out with accrued interest in favour of IOB subject of course to statutory deductions, if any and subject to counsel for IOB complying with operating and obtaining procedures.

6. As regards refund of court-fee, in the light of Section 69-A of Tamil Nadu Court Fees and Suits Valuation Act, 1955 and the judgment rendered in *High Court of Judicature at Madras represented by Registrar General Vs. M.C. Subramaniam and Others* reported in (2021) 3 SCC 560, Section 69-A would apply even to out of court settlement. We order refund of court-fee qua 69-A subject of course to statutory deductions, if any and subject to learned counsel for respective appellants complying with the



*O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020*

requisite/obtaining procedures.

7. The aforementioned payment out directive and refund of court-fee directive shall be complied with by the Registry as expeditiously as the business of the Registry would permit, without insisting on a separate application for refund of court-fee, in any event, within six weeks from today, i.e., by 06.08.2024.

8. Captioned O.S.As are disposed of as withdrawn/closed. Consequently, captioned C.M.P. in one of the captioned O.S.As is also disposed of as withdrawn/closed. There shall be no order as to costs.

nv

(M.S.J.) (K.G.T.J.)
25.06.2024

M. SUNDAR.J.

AND



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*O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020*

K. GOVINDARAJAN THILAKAVADI,J.

nv

O.S.A. Nos. 214 & 264 of 2020
&
C.M.P. No. 10734 of 2020
in
O.S.A. No. 214 of 2020

25.06.2024

O.S.A.Nos.214 and 264 of 2020
and
C.M.P.No.10734 of 2020 in O.S.A.No.214 of 2020



O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020

M.SUNDAR.J.,
AND
K.GOVINDARAJAN THILAKAVADI.J.,

(Order of the Court was made by M.SUNDAR.J.,)

Captioned matters were disposed of by a common judgment dated
25.06.2024 made by us and a scanned reproduction of the same is as follows

:





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*O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020*



*O.S.A. Nos. 214 & 264 of 2020
C.M.P. No. 10734 of 2020
O.S.A. No. 214 of 2020*

Prayer: Original Side Appeal under Order XXXVI Rule 1 of Original Side Rules read with clause 15 of Letters Patent as against the judgment and decree dated 11.12.2019 passed in C.S.(Comm.Div.)No. 1 of 2019.

For Appellant :- Mr. Aashish Dabala

For Respondent :- Mr.K. Gowtham Kumar

O.S.A. No. 264 of 2020

Suryadev Alloys and Power Private Limited,
represented by its Authorised Signatory and
Chief Financial Officer, Mr.Mazaffer Ahmed,
497 & 498, 8th Floor, Isara Building,
P.H. Road, Arumbakkam,
Chennai – 600 109.

..Appellant

Vs.

Indiab. Overseas Bank
represented by its Branch Manager,
52/153 and 63/155,
Mammurwaney Koil Street,
Royapuram, Chennai – 600 013.

..Respondent

Prayer: Original Side Appeal under Order XXXVI Rule 1 of Original Side Rules read with clause 15 of Letters Patent as against the judgment and



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O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020



O.S.A. Nos. 214 & 264 of 2020
&
C.M.P. No. 10734 of 2020
in
O.S.A. No. 214 of 2020

decree dated 11.12.2019 passed in C.S.(Comm.Div.)No. 1 of 2019.

For Appellant : Mr.K. Gowtham Kumar

For Respondent : Mr. Aashish Dafaria

COMMON JUDGMENT

(Delivered by **M. SUNDAR J.**)

Captioned 'Original Side Appeals' ['O.S.As' in plural and 'O.S.A.' in singular] and captioned 'Civil Miscellaneous Petition' ['C.M.P.' for the sake of brevity and convenience] in one of the captioned O.S.As are listed under the cause list caption 'FOR REPORTING SETTLEMENT/ARGUMENTS'.

2. Mr.K. Gowtham Kumar, learned counsel on record for 'Indian Overseas Bank' ['IOB' for the sake of brevity and convenience] and Mr.Aashish Dafaria, learned counsel on record for 'Suryadev Alloys and Paper private limited' (hereinafter 'Suryadev' for the sake of brevity, convenience and clarity) are before this Court.

<https://www.mhc.tn.gov.in/judis>



*O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020*

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*O.S.A. Nos. 214 & 264 of 2020
&
C.M.P. No. 10734 of 2020
in
O.S.A. No. 214 of 2020*

3. Both learned counsel submit that the lis has been settled out of Court as between the parties and therefore, they have instructions to give closure to captioned O.S.As. by withdrawing the same. Saying so, learned counsel have made endorsements in the respective appeals as well as in C.M.P. No.10734 of 2020 in O.S.A. No.214 of 2020. A scanned reproduction of the three endorsements is as hereunder:



WITH COPIES

O.S.A. Nos. 214 & 264 of 2020
&
C.M.P. No. 10734 of 2020
III
O.S.A. No. 214 of 2020

IN THE HIGH COURT OF
JUDICATURE AT MADRAS
1 April 1964
O.S.A. (CAD) NO. 24 OF 2024
Aggrieved
C.S. (Comm) Dis. No. 1 of 2023

...Appendix

Carverdes, A. D. and Power
Private Limited

MEMORANDUM OF DECISION
ON WRIT OF HABEAS CORPUS

19 JUL 2001
EDWARD JAMES
AASHISH DAFARUA

MR. CYRIL AMARCHAND
MANOJ DAS
ADVOCATES & SOLICITORS
2ND FLOOR, 40V CHAMBERS
SQUARE 204, CHAMBERS ROAD
CHENNAI - 600 028

<https://www.ncbi.nlm.nih.gov/pubmed/28222222>

<https://www.mhc.tn.gov.in/judis>



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O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020



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O.S.A. Nos. 214 & 264 of 2020
&
C.M.P. No. 10734 of 2020
in
O.S.A. No. 214 of 2020

Handwritten notes in the left margin, including a signature and the date 25/11/20.

IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(As per the Constitution
of India, 1950)
O.S.A. (C.A.) NO. 214 of 2020
Appeal
C.S. (Comm. Div.) No. 1 of 2019

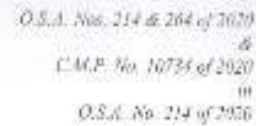
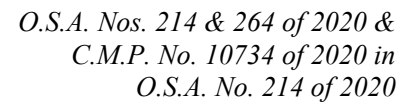
For the Appellant
Appellant

For the Respondent
Respondent

DEPARTMENT OF
JUDICIAL RECORDS
COUNSEL FOR THE APPELLANT
EDW ARD JAMES
ANANTH DAFARIA

SEN CYRIL AMBROSE
SENGUPTA
ADVOCATE GENERAL
271, CHURCH STREET, CHENNAI
SQUARE OFFICE CHENNAI
CHENNAI - 600 086
LAND PHONE

<https://www.mhc.tn.gov.in/judis>



<https://www.mhc.tn.gov.in/judis>



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O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020



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O.S.A. Nos. 214 & 264 of 2020
&
C.M.P. No. 10734 of 2020
in
O.S.A. No. 214 of 2020

4. Before we write the concluding portion of this judgment, there is no dispute as between the learned counsel before us that a sum of Rs.8 crores is lying to the credit of captioned appeals by way of Fixed Deposits in the name of learned Registrar General of this Court. Both learned counsel make a joint request that the same can be paid out without going through the procedure of separate payment out application.

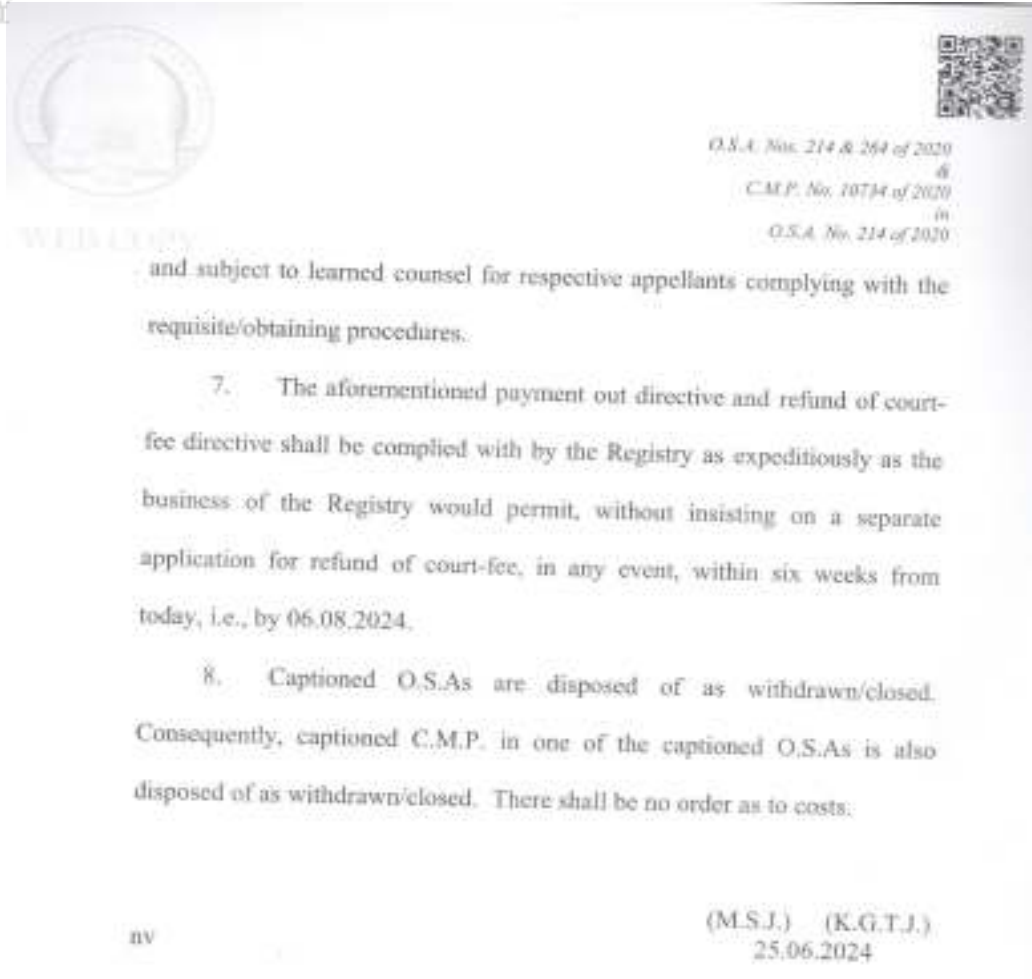
5. In the light of common/joint request made, there shall be a direction for payment out with accrued interest in favour of IOB subject of course to statutory deductions, if any and subject to counsel for IOB complying with operating and obtaining procedures.

6. As regards refund of court-fee, in the light of Section 69-A of Tamil Nadu Court Fees and Suits Valuation Act, 1955 and the judgment rendered in *High Court of Judicature at Madras represented by Registrar General Vs. M.C. Subramaniam and Others* reported in (2021) 3 SCC 560, Section 69-A would apply even to out of court settlement. We order refund of court-fee qua 69-A subject of course to statutory deductions, if any



*O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020*

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2.Today, the captioned matters are listed under the cause list caption 'FOR BEING MENTIONED' as two inadvertent errors have crept in qua undisputed facts. They are at paragraph Nos.2 and 4 of our order dated 25.06.2024 (scanned and reproduced supra).



*O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020*

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3. Two learned counsel Mr.K.Gowtham Kumar and Mr.Aashish Dafaria are before us in the Court and both learned counsel request for a correction in paragraph Nos. 2 and 4 of our order dated 25.06.2024.

4. As regards paragraph No.2 of our order dated 25.06.2024, learned counsel names as against their clients have been interchanged. Mr.K.Gowtham Kumar, learned counsel is counsel on record for 'Suryadev Alloys and Power Private Limited' ['Suryadev'] and Mr.Aashish Dafaria, learned counsel is counsel on record for 'Indian Overseas Bank' ['IOB']. This is the correct factual position.

5. Both learned counsel also submitted in one voice that the second factual error is at third line in paragraph 4 of our order that a sum of Rs.8 crores is lying to the credit of the suit i.e., Original Side of this Court and not to the credit of the captioned appeals. Therefore, in paragraph 4 supra, the expression 'captioned appeals' will now be replaced by 'a suit being C.S.(Comm.Div.) No.1 of 2019 on the file of Commercial Division of this Court [Original Side]'.



O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020

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6. Both learned counsel request that these corrections may please be carried out in our order dated 25.06.2024 so as to ensure effective implementation of the order. Therefore, paragraph Nos.2 and 4 in our earlier order dated 25.06.2024 will now stand replaced as follows :

'2. Mr.K. Gowtham Kumar, learned counsel on record for 'Suryadev Alloys and Power Private Limited' (hereinafter 'Suryadev' for the sake of brevity, convenience and clarity) and Mr.Aashish Dafaria, learned counsel on record for 'Indian Overseas Bank' ['IOB' for the sake of brevity and convenience] are before this Court.

4. Before we write the concluding portion of this judgment, there is no disputation as between the learned counsel before us that a sum of Rs.8 crores is lying to the credit of a suit being C.S.(Comm.Div.) No.1 of 2019 on the file of Commercial Division of this Court [Original Side] by way of Fixed Deposits in the name of learned Registrar General of this Court. Both learned counsel make a joint request that the same can be paid out without going through the procedure of separate payment out application.'

7. This proceedings which is made with the consent of learned counsel



*O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020*

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on both sides will now be uploaded as corrigendum/erata/addendum to our earlier. All other aspects of our earlier order dated 25.06.2024 remain unchanged.

[M.S.J.] [K.G.T.J.]
10.07.2024

ds



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*O.S.A. Nos. 214 & 264 of 2020 &
C.M.P. No. 10734 of 2020 in
O.S.A. No. 214 of 2020*

M.SUNDAR.J.,
AND
K.GOVINDARAJAN THILAKAVADI.J.,

ds

O.S.A.Nos.214 and 264 of 2020

10.07.2024