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C.M.P.No.18117 of 2023
in Appeal(CAD) No.17 of 2023

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

[Order of the Court was made by M.SUNDAR. J.,]

This order has to be read in conjunction with and in continuation of separate proceedings made in the main appeal today (01.04.2024) which reads as follows:

'A plaint was presented on the Original Side of this Court on 09.09.2014 and institution of the same i.e., institution of suit was vide C.S.No.599 of 2014. After the change in pecuniary jurisdiction, the suit was transferred to XVII Additional Judge's Court, City Civil Court, Chennai and it was renumbered as O.S.No.6828 of 2019 and on constitution of Commercial Court in Chennai vide 'The Commercial Courts Act, 2015 (Act 4 of 2016)' [hereinafter 'CCA' for the sake of convenience and clarity] the suit underwent another change and it became C.O.S.No.825 of 2022 on the file of the Commercial Court, Chennai at Egmore.

2. The suit was filed by an individual carrying on business as a sole proprietor in the name and style of 'Akshay Impex' against a carrier and claim is predicated on monies paid towards damage, demurrage and detention charges. The plaintiff laid the suit on the basis that the plaintiff is a consignee but this was subjected to



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disputation by carrier. The other point for consideration is, plaintiff contended that monies were paid under duress and this became another contentious issue. After full contest, said Commercial Court decreed the suit in favour of sole plaintiff and lone defendant carrier is on appeal i.e., a regular first appeal under Section 96 of 'the Code of Civil Procedure, 1908 (5 of 1908)' [hereinafter 'CPC' for the sake of convenience and clarity] read with Section 13 of CCA.

*3. Mr.P.Giridharan, learned counsel for appellant is before us and learned counsel is ready to advance arguments but Mr.V.Anilkumar, learned counsel for respondent requested for a short accommodation citing difficulty for arguing counsel Mr.S.R.Raghunathan. Request acceded to.
List on 18.04.2024.'*

2. Aforementioned proceedings will bring to light that defendant in a Commercial Court suit is in appeal against a money decree. In this view of the matter, Hon'ble predecessor Bench had granted an order of interim stay subject to usual condition of deposit of 50%. Thereafter, post deposit, there was Rs.100/- deficit owing to error in computation and a course correction was done vide order dated 01.02.2024 made in C.M.P.No.26249 of 2024.

3. We are now informed that 50% is lying in a interest bearing Fixed



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Deposit to the credit of the suit.

4. We are also informed that the main suit is ripe for being heard out and records have been received from said Commercial Court.

5. Leaving open the rights of respondent before us to seek payment out (if the need arises) and making it clear that if such a situation arises, payment out will be considered on its own merits and in accordance with law, we deem it appropriate to give a closure to the captioned 'Civil Miscellaneous Petition' [hereinafter 'CMP' for the sake of convenience and clarity].

6. Captioned CMP is disposed of as closed albeit with the aforementioned observation and further observation that 50% of the money decree now lying in interest bearing Fixed Deposit will continue to lie in the interest bearing Fixed Deposit and renewal of the deposit will be made if that becomes necessary.

[M.S., J] [K.G.T., J]
01.04.2024

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



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