A.No.4218 of 2024 in
E.P.No.70 of 2023

SENTHILKUMAR RAMAMOORTHY,J

This application is filed for permission to withdraw a sum of Rs.1,66,96,492/- along with accrued interest. A sum of Rs.1,70,72,078/- was deposited by the 2nd respondent pursuant to order dated 27.03.2024 in E.P.No.70 of 2023. The applicant had filed C.S.(Comm.Div.)No.591 of 2018, which was decreed on 09.06.2022 for a sum of Rs.1,70,72,078/-. The matter was carried in appeal in O.S.A.(CAD)No.57 of 2023, which was dismissed on 03.01.2024. The SLP against the judgment of the Division Bench was dismissed on 01.03.2024 at the admission stage. The applicant has placed on record the certificate of funds indicating that a sum of Rs.1,66,96,492/- is lying in a fixed deposit account to the credit of E.P.No.70 of 2023 and that such amount has been deposited in the Indian Bank, Madras High Court Branch, Chennai-104.

2. Learned counsel for the applicant submits that the certificate of funds specifies that the amount would be paid after deducting Government

commission and audit fees on accrued interest. He points out that this is contrary to the judgment of this Court in *Gowpatt Associates, represented by its proprietor Mr.P.Arun Kumar, Chennai v. Superintending Engineer, National Highways, Salem Circle, Salem and others, (2024) 1 MLJ 349 (Gowpatt Associates)*, wherein it was categorically held in the operative portion that the Registry is not entitled to deduct 2% commission and 0.2% audit fees on deposits made in nationalised banks as per the orders of this Court. He points out that the said order holds the field and that no appeal was filed against such order.

3. Learned counsel for the 2nd respondent/judgment debtor points out that pursuant to order dated 27.03.2024, the 2nd respondent submitted a banker's cheque in favour of the Registrar General, High Court of Madras, for a sum of Rs.1,70,72,078/-.

4. By the present application, payment out is requested for in respect of the sum of Rs.1,66,96,492/- which is lying to the credit of the suit. As per the order in *Gowpatt Associates*, other than charges incurred by this

Court, commission and audit fees should not have been deducted from this amount. From the certificate of funds, it appears that such deduction was made. Even without revisiting the earlier deduction, as per the law laid down in *Gowpatt Associates,* the applicant is entitled to sum claimed along with interest accrued thereon, without deductions towards commission and audit fees.

5. For reasons aforesaid, this application is allowed and the applicant is permitted to withdraw the amount lying to the credit of the suit along with interest accrued thereon without any further deductions in respect of commission or audit fees.

21.08.2024

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