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C.M.P.No.5088 of 2024
in Appeal (CAD) No.6 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2025

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

CMP No. 5088 of 2024
IN
APPEAL(CAD) NO. 6 OF 2024

Chennai Port Trust
Rep by its Chairman,
Rajaji Salai,
Chennai 600 001 and 2 Others

Appellant(s)

Vs

J.Chandrasekaran
Proprietor, M/s.Jeyavani
Ice unit, New No.103, Old No.25,
Kumbalamankoil Street, Tondiarpet,
Chennai and 2 Others

Respondent(s)

For Appellant(s): Mr.ARL.Sundaresan,
Senior Counsel
for Mr.Haja Mohideen Gisthi

For Respondent(s): Mr.V.Manohar
for R-1
:
Mr.Sharath Chandran,
Amicus Curiae

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ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

This C.M.P. is filed seeking stay of the judgment and decree dated 04.08.2023 passed by the Commercial Court at Chennai in C.O.S.No.337 of 2022.

2. There is an affidavit by one V.Thuraipandian, authorised signatory and competent person to file the affidavit dated 26.11.2024, in which it is stated that without prejudice to various contentions raised by applicant/appellant, applicant/appellant is willing to furnish bank guarantee for the decretal amount in order to satisfy the requirement under Order XLI Rule 5 of Code of Civil Procedure, 1908.

3. Sri.Manohar appearing for first respondent submits that the decree is of 04.08.2023 and the disposal of the appeal also will take some more time and therefore, if the Court is inclined to accept a bank guarantee towards security, the bank guarantee shall be of the amount payable as on



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date, to be paid with further interest at 6% per annum on the principal amount of Rs.77,73,060/-.

4. In our view, Sri.Manohar is justified. Sri.Sundaresan, on instructions, states that the amount as per the decree, as on date, is Rs.1.19 crores and the interest is about Rs.2,32,000/-.

5. Therefore, we pass the following order:-

- a) Applicant/appellant shall give a bank guarantee of a nationalised bank in favour of the Registrar-General, High Court of Madras, to the credit of Appeal (Cad) No.6 of 2024;
- b) The bank guarantee shall be for a sum of Rs.1,25,00,000/- (Rupees one crore twenty five lakhs only) with further interest at 6% per annum on Rs.77,73,060/- until the date of payment/realisation;
- c) The bank guarantee shall be kept alive for a period of one year and renewed from year to year unless otherwise ordered;



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- d) The bank guarantee shall be renewed at least 60 days before the expiry of the bank guarantee and if not renewed, the bank guarantee amount shall be paid over to the Registrar-General within one week without any demur or demand. This amount shall be paid over notwithstanding the expiry of the bank guarantee;
- e) The bank guarantee shall be furnished within four weeks from today. If the bank guarantee is so furnished, there shall be a stay on the execution proceedings of the judgment and decree dated 04.08.2023 until the final disposal of this appeal. If the bank guarantee is not so furnished, this application shall stand dismissed without further reference to the Court and respondent shall be at liberty to proceed with the execution proceedings;
- f) A copy of the bank guarantee together with its renewal shall be made available to respondent's advocate;
- g) Counsel for respondent also undertakes to keep the bank guarantee that was initially furnished on 17.04.2014 and subsequently renewed on 30.04.2024 alive for a period of three



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months after the disposal of this appeal. Statement accepted as an undertaking to this Court.

- h) The undertaking of appellant to pay the bank guarantee charges to respondent, if appellant is not successful in the present appeal, is accepted as an undertaking to this Court.

This C.M.P. is, accordingly, disposed of.

(K.R.SHRIRAM, CJ.)

(SENTHILKUMAR RAMAMOORTHY, J.)

27.01.2025

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The Hon'ble Chief Justice
and
Senthilkumar Ramamoorthy, J.

(sra)

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27.01.2025