



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON
17.02.2026

PRONOUNCED ON
17.04.2026

CORAM

THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN

AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

OSA No. 90 of 2020
and Cross Objection No.54 of 2022
and CMP.No.3745 of 2022

OSA No. 90 of 2020

Moosa Ahmed(deceased)

1) Mr.Mohammed Abdul Majid

2) T.S.Hajee Moosa And Co
Post Box No.1771, No.33 Godown Street,
Chennai 600 001.

Represented by its Partner,
Mr.Mohamed Abdul Majid.

3) M/s Hamosons Exports Private Ltd
H.M.Center 1st Floor, 15-a, Nungambakkam
High Road, Chennai 600 034.

Represented by its Managing Director
M.Rmoosa Ahmed.

4) M/s Famtex Exports Priavate Ltd,
Regd. Office H.M.Centre 15-A,
Nungambakkam High Road, Chennai 600 034.
Rep by its Managing Director,
Mr.Moosa Ahmed.

5) M/s Famco Enterprises
Post Box No.1771, No.33, Godown Street,



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Represented by its Partner, Mr.Moosa Ahmed

6) M/s Amex Garments Private Ltd,
H.M.Centre, 1st Floor, 15-A, Nungambakkam
High Road, Chennai 600 035 Repo By Its
Managing Director, Mr.Moosa Ahmed

7) Mr.Ashfaag Moosa

8) Mr.Fahim Moosa

9) Mr.Zoheb Moosa

10) Mr.Arsheen

..Appellant(s)

Vs

M/s.IOCEE Exports Limited
4E, Century Plaza 4th Floor, 560-562, Mount
Road, Teynampet, Chennai 600 018 Represented
By its Executive
Mr.Ganesh Patwari

..Respondent(s)

PRAYER:- Appeal filed under Order XXXVI Rule 1 of O.S.Rules or 13-A of the Commercial Courts Act, 2015 r/w Clause 15 of Letter Patent to set aside the judgment and decree dated 06-11-2019 in CS No.343 of 2011 passed by the Learned Judge.

For Appellant(s): Mr.C.Manohar Gupta

For Respondent(s): Mr. M. Aravind Subramaniam
Senior Counsel
for Mr.A.Sathasivam

Cross Objection No.54 of 2022

M/s.IOCEE Exports Ltd,
4E, Century Plaza, 560-562, Mount Road
Teynampet, Chennai-18,
Represented by its Executive Mr.Ganesh Patwari.

..Appellant(s)



Vs

Moosa Ahmed (Deceased)

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7) Mr.Ashfaag Moosa

8) Mr.Fahim Moosa

9) Mr.Zoheb Moosa

10) Mr.Arsheen

..Respondent(s)

PRAYER:- Cross Appeal filed under Order XLI Rule 22 of the Code of Civil Procedure, to allow this Cross Appeal as against the Judgment and Decree dated



06.11.2019 made in CS.No. 343 of 2011 on the file of this Hon'ble Court and to direct the Respondents herein to pay a further sum of Rs.1,88,11,749.78/- (One Crore Eighty Eight Lakhs Eleven Thousand Seven Hundred and Forty Nine rupees and Seventy Eight Paisa) together with interest at 24% per annum from the date of Complaint till the date of realization and thus render justice.

For Petitioner(s): Mr. M. Aravind Subramaniam
Senior Counsel
for Mr.A.Sathasivam

For Respondent(s): Mr.C.Manohar Gupta

JUDGMENT

(Judgment of the Court was delivered by K.Kumaresh Babu J.)

The present appeal has been filed by the defendant challenging the judgment and decree dated 06.11.2019 whereby the suit was partly decreed by the learned Single Judge in C.S.No.343 of 2011 and the Cross Objection has been filed by the plaintiff as against the disallowed portion.

2. Heard the learned Senior counsel/counsel appearing for their respective parties in the respective Appeal and Cross Objection.

3. A suit had been instituted for recovery of money on the basis of the loans that were advanced by the plaintiff claiming a sum of Rs.2,26,82,963.78/- together with interest at the rate of 24% per annum and the same was primordially contested on the ground of limitation. The following issues were



framed.

- (i) *Whether the suit is barred by limitation ?*
- (ii) *Whether the plaintiff is entitled to a sum of Rs.2,26,82,963.78 payable by the defendants, with interest at 24% per annum ?*
- (iii) *To what relief, the plaintiff is entitled ?*

4. The parties have examined themselves and have also marked various exhibits on either side. Answering to the issues, the learned Single Judge had held that the plaintiffs claim for the entire suit claim had been barred by limitation and had decreed a sum of Rs.38,71,214/- without any interest there upon and the plaintiff was held to be entitled to 6% interest from the date of the decree till its realisation, on a finding that the decreed amount as reflected in the accounts to be an acknowledgement of liability.

5. The defendants have filed an Intra-Court Appeal primarily contending that even the said acknowledgement which had been relied upon by the learned Single Judge under Ex.P33 is dated 30.01.2006 and therefore, the suit ought to have been filed on or before 29.01.2009 but the suit had been presented before this Court only on 30.01.2009 and therefore, the entire suit itself is barred by law of limitation. He would submit that the learned Single Judge had wholly erred in failing to note that the suit had been hit by the law of limitation and



proceeded to hold based on Ex.P33, that the defendants are liable to pay the decreed amount. He would further submit that the said amount shown in the books of accounts as reflected in Ex.P33 also only relates to an acknowledgement which was beyond the period of limitation and therefore, such acknowledgement at any rate cannot be taken to be an acknowledgement of liability falling under Section 18 of the Limitation Act to grant the decree. Hence, he would seek indulgence of this Court.

6. Countering his arguments, the learned counsel appearing for the respondent/ plaintiff would submit that under Ex.P33, it is the defendants on their own volition have accepted that there was a debt payable by them to the plaintiffs and therefore, the decree under the same cannot be said to be a decree which requires interference by this Court. That apart, he would submit that the learned Single Judge had failed to note that the transactions between the parties are continuous transactions and therefore, the entire suit claim would also not be hit by law of limitation. He would submit that when the transaction have been accepted to by the parties, the learned Single Judge ought to have granted a decree as prayed for based upon the uncontroverted evidence of PW1 and the exhibits filed through him. He would further submit that even for the amount decreed, the learned Single Judge had failed to grant interest atleast from the date of the filing the plaint and therefore, he would submit that if this Court upholds the decree interest from the date of at least the plaint being filed before



this Court may be granted. In that context, he would submit that the judgment and the decree of the learned Single Judge is liable to be interfered with by granting a decree for the entire suit claim together with interest.

7. We have considered the submissions made by the learned Senior counsel/counsel appearing for their respective parties in the respective Appeal and Cross Objection.

8. The suit had been filed based upon the transactions between the parties for recovery of a sum of Rs.2,26,82,963.78/-. However, a perusal of the judgment would show that the plaintiffs, who have filed Cross Objections the decree had restricted their claim only with regard to the acknowledged liability namely Rs.38,78,214/- with interest. Having restricted their claim before the learned Single Judge, we are of the considered view that their claim for the balance disallowed portion made by the plaintiffs cannot be entertained. For better appreciation, the recording of the learned Single Judge to that extent alone is extracted hereunder:-

“9.Though the suit has been filed for recovery of Rs.2,26,82,963.78, the plaintiff during the submissions has restricted their claim only with regard to the admitted liability by the defendants namely In the entire written Rs.38,71,214/- with interest. In the entire written statement, the transaction between the plaintiff and the



defendants is not disputed.”

9. It would be useful to refer to the judgment of the Hon'ble Apex Court reported in **(1982) 2 SCC 463** in the case of ***State of Maharashtra Vs Ramdas Shrinivas Nayak and another***. In the aforesaid judgment, the Hon'ble Apex Court had held that a party cannot be allowed to resile from a concession that had been made, in the Appellate Court with regard to the concession that has been given by it in the Court which has passed orders unless or until such concession had been made on the wrong appreciation of law which leads to a gross injustice.

10. For better appreciation, the relevant paragraph of the said judgment is extracted hereunder:-

“4. When we drew the attention of the learned Attorney-General to the concession made before the High Court, Shri A.K. Sen, who appeared for the State of Maharashtra before the High Court and led the arguments for the respondents there and who appeared for Shri Antulay before us intervened and protested that he never made any such concession and invited us to peruse the written submissions made by him in the High Court. We are afraid that we cannot launch into an enquiry as to what transpired in the High Court. It is simply not done. Public policy bars us. Judicial decorum restrains us. Matters of judicial



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record are unquestionable. They are not open to doubt. Judges cannot be dragged into the arena. “Judgments cannot be treated as mere counters in the game of litigation.” [Per Lord Atkinson in *Somasundaram Chetty v. Subramanian Chetty*, AIR 1926 PC 136 : 99 IC 742] We are bound to accept the statement of the Judges recorded in their judgment, as to what transpired in court. We cannot allow the statement of the Judges to be contradicted by statements at the Bar or by affidavit and other evidence. If the Judges say in their judgment that something was done, said or admitted before them, that has to be the last word on the subject. The principle is well-settled that statements of fact as to what transpired at the hearing, recorded in the judgment of the court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence. If a party thinks that the happenings in court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still fresh in the minds of the Judges, to call the attention of the very Judges who have made the record to the fact that the statement made with regard to his conduct was a statement that had been made in error. [Per Lord Buckmaster in *Madhu Sudan Chowdhri v. Chandrabati Chowdhra*, AIR 1917 PC 30 : 42 IC 527] That is the only way to have the record corrected. If no such step is taken, the matter must necessarily end there. Of course a party may resile and an appellate court may permit him in rare and appropriate cases to resile from a concession on the ground that the



concession was made on a wrong appreciation of the law and had led to gross injustice; but, he may not call in question the very fact of making the concession as recorded in the judgment.”

11. In the present case, admittedly, the last of the demand made by the plaintiffs/ cross objector was under Ex.P29 is dated 07.09.2004 and further the claim is based upon Ex.P33 which is a letter written by the appellants calling upon the Cross Objector to confirm its outstanding. Hence, the demands made under Ex.P29 would definitely be beyond the period of limitation as the suit itself has been filed only in the year 2009. Hence, we cannot also say that there is wrong appreciation of the fact and law, to permit the Cross Objector to resiling the confession made before the learned Single Judge.

12. The only issue that now is to be decided is to whether the learned Single Judge was right in decreeing the suit based upon Ex.P33 which is dated 30.01.2006 by treating it to be an acknowledgement of liability. Even though, the appellants have assailed the order by contending that the same could also not be treated as an acknowledgment of liability falling under Section 18 of the Limitation Act, the appellants have also contended that even if assuming that it is an acknowledgment of liability falling under Section 18, such claim would also be barred by limitation as the suit had not been initiated within a period of 3 years ie., on or before 29.01.2009 and hence, the same is also barred by



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13. We had called upon the records of the suit to be placed before us to verify the fact as to whether the suit had been filed within the period of limitation. Admittedly, Ex.P33 is dated 30.01.2006 and therefore, the suit would have to be laid within a period of three years which would fall on or before 29.01.2006. A perusal of the plaint would indicate that the plaint had been presented before this Court on 30.01.2006 which is a day beyond the period of limitation. Therefore, we come to a conclusion that the suit even based upon Ex.P33 would be beyond the period of limitation and therefore, the suit itself would have to fail.

14. For the aforesaid reasons, the Appeal stands allowed and the judgment and decree made by the learned Single Judge in C.S.No.343 of 2011 stands set aside. Consequently, the Cross Objection also fails. Connected miscellaneous petition is also closed. However, there shall be no order as to costs.

(C.V.K.,J.) (K.B.,J.)
17.04.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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OSA No. 90 of 2



**C.V.KARTHIKEYAN, J.
AND
K.KUMARESH BABU, J.**

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A Pre-Delivery order made in
OSA No. 90 of 2020
and Cross Objection No.54 of 2022
and CMP.No.3745 of 2022

17.04.2026



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OSA No. 90 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2026

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AND

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

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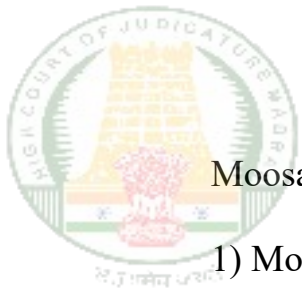
For Respondent(s): Mr. M. Aravind Subramaniam
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PRAYER:- Cross Appeal filed under Order XLI Rule 22 of the Code of Civil Procedure, to allow this Cross Appeal as against the Judgment and Decree dated 06.11.2019 made in CS.No. 343 of 2011 on the file of this Hon'ble Court and to direct the Respondents herein to pay a further sum of Rs.1,88,11,749.78/- (One



Crore Eighty Eight Lakhs Eleven Thousand Seven Hundred and Forty Nine rupees and Seventy Eight Paisa) together with interest at 24% per annum from the date of Complaint till the date of realization and thus render justice.

For Petitioner(s): Mr. M. Aravind Subramaniam
Senior Counsel
for Mr.A.Sathasivam

For Respondent(s): Mr.C.Manohar Gupta

JUDGMENT

(Judgment of the Court was delivered by K.Kumaresh Babu J.)

After the judgment was delivered by us on 17.04.2026, the learned counsel for the appellant had requested refund of the amount deposited before this Court. While drafting the order as claimed for by the appellant, it was noticed that the appellant had originally deposited a sum of Rs.12,90,405/- which was a pre-condition for grant of interim stay had been withdrawn by the respondent/ plaintiff pursuant to the permission granted by this Court. That apart, the appellant had also been directed to furnish a bank guarantee of sum of Rs.30,00,000/- with 9% interest by order dated 18.11.2024 which was furnished to by the petitioner and that apart with regard to 9% interest that was ordered, the petitioner had given a fixed deposit of Rs.3,00,000/- which remains in a fixed deposit made by the Court. In such view of the matter, the following order is made:-



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a)The respondent/ plaintiff shall repay the appellant a sum of Rs.12,90,405/- withdrawn by him within a period of four (4) weeks from the date of receipt of this order.

b)The Registrar General is directed to return the bank guarantee furnished by the petitioner for a sum of Rs.30,00,000/-

c)The Registrar General shall also disburse the sum of Rs.3,00,000/- which had been kept in a fixed deposit together with the accrued interest thereon to the appellant without any notice to the respondent.

(C.V.K.,J.) (K.B.,J.)
24.04.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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OSA No. 90 of 2



**C.V.KARTHIKEYAN, J.
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24.04.2026