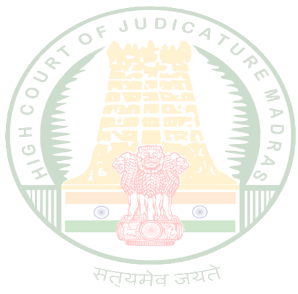

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.04.2026	Pronounced on : 23.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
and
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Appeal (CAD) (MD).No.2 of 2025

M/s.Kovilpatti Lakshmi Roller,
Flour Mills Limited,
Registered Office at 75/8,
Benares Cape Road,
Gangaikondan – 627352,
Tirunelveli,
Represented by its Company Secretary,
S.Piramuthu. ... Appellant / Plaintiff

Vs.

M/s.Canara Bank,
having its Head Office at
112, JC Road, Bengaluru,
Karnataka – 560002 and its Branch at
52C/41/13,
Ettayapuram Rajah Building,

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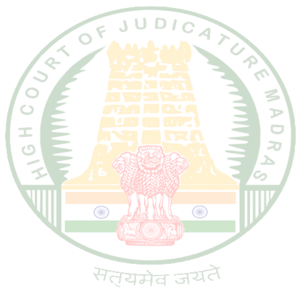

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Tirunelveli Junction,
Tirunelveli – 627001,
through its Chief Manager. ... Respondent / Defendant

PRAYER: Appeal – Commercial Appellate Division has been filed under Section 13 of the Commercial Courts Act, to set aside the judgment and decree dated 05.11.2024 made in O.S.No.148 of 2021 (Commercial Original Suit) on the file of the learned Principal District Judge, Tirunelveli and to allow the above appeal.

For Appellant : M/s.N.Krishnaveni,
Senior Counsel
for Mr.P.Thiyagarajan

For Respondent : Mr.N.Dilip Kumar

JUDGMENT

(Judgment of the Court was made by **K.K.RAMAKRISHNAN,J.**)

The Appeal – Commercial Appellate Division has been filed by the appellant/plaintiff to set aside the judgment and decree dated 05.11.2024 made in O.S.No.148 of 2021 (Commercial Original Suit) on the file of the learned Principal District Judge, Tirunelveli and to allow the above appeal.

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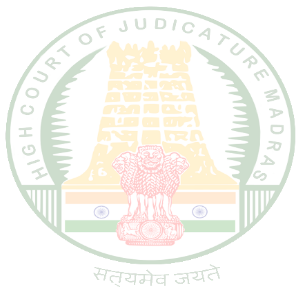

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2. For the sake of convenience and better appreciation of the facts, the parties are referred to according to their rank before the Trial Court.

3. The brief averments of the plaint are as follows:

3.1. The plaintiff is a public limited company having two distinct business divisions, namely, the flour mill division and the engineering division. The plaintiff had availed working capital facilities from the defendant bank in the year 1963 to the tune of Rs.29.70 crores. The said working capital limit was being renewed periodically every year. Out of the said limit of Rs.29.70 crores, a sum of Rs.28.70 crores was availed for the flour mill division and a sum of Rs.1 crore was availed for the sheet metal division.

3.2. In the year 2018, the defendant bank unilaterally increased the rate of interest on the working capital loan from 11.10% to 13.70% with effect from 02.05.2018 through the sanction memorandum dated 13.04.2018. Since the other banks, particularly HDFC Bank, were charging only 10.30% interest, the plaintiff, by communications dated 28.05.2018 and 10.01.2019,

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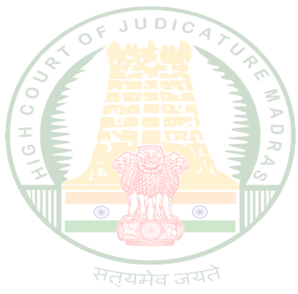
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requested the defendant bank to reduce the rate of interest. However, the defendant failed to consider the said request.

3.3. According to the plaint, the respondent bank neither responded to the plaintiff's request nor reduced the rate of interest. In the meantime, the validity period of the sanction memorandum dated 13.04.2018 expired and the process for renewal of the working capital facilities for the financial year 2019–2020 commenced. The plaintiff once again requested the respondent bank to reduce the rate of interest.

3.4. The plaintiff would further aver that, although the respondent bank had expressed its willingness to consider a reduction in the rate of interest through its communications, no reduction was granted. Consequently, the plaintiff submitted a further representation seeking reduction of the interest rate. In the said communication dated 20.12.2018 the plaintiff also expressed its intention to adopt a multiple banking arrangement involving other banks, including HDFC Bank and Axis Bank, and proposed a reduction of its working capital exposure with the

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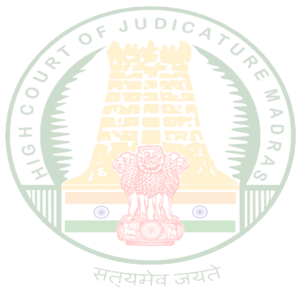
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respondent bank from 29.70 crores to approximately 13.50–14.50 crores.

3.5. Thereafter, the respondent bank issued a sanction memorandum dated 06.05.2019, valid up to 09.04.2020, whereby the rate of interest for the working capital facilities was reduced to 11.50%, broadly in line with the rates prevailing in the earlier years. However, the said sanction memorandum contained a specific condition that, in the event of the credit facilities being taken over by another bank, the concession in the rate of interest extended during the preceding year would be recovered from the borrower before closure of the account. The said condition formed part of the sanction terms conveyed to the plaintiff.

3.6. The plaintiff never accepted the Sanction Memorandum and sent a communication dated 03.06.2019 requesting deletion of the aforesaid clause. According to the plaintiff, although the Sanction Memorandum bore the date 06.05.2019, the acceptance containing the endorsement "accepted subject to the offer letter dated 03.06.2019" was obtained only after June 2019. The plaintiff thereafter addressed further communications requesting

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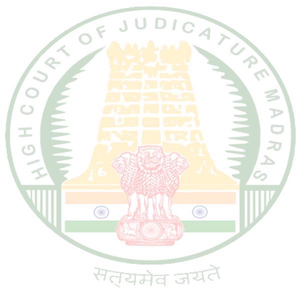

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deletion of the aforesaid condition relating to recovery of the interest concession upon transfer of the account to another bank. Simultaneously, the plaintiff continued to seek reduction of the rate of interest.

3.7. While matters stood thus, the subsequent renewal period approached. During the outbreak of the COVID-19 pandemic, the respondent bank sanctioned additional facilities to the plaintiff, including a term loan and ad hoc working capital assistance. The plaintiff also decided to discontinue its Sheet Metal Division and requested the respondent bank to release the collateral securities proportionate to the liabilities pertaining to the said division.

3.8. According to the plaint, discussions continued between the parties concerning reduction of the rate of interest, release of securities, restructuring of banking arrangements and other related issues. During this period, the respondent bank sanctioned a term loan of 2.77 crores and ad hoc temporary working capital facilities of 2.95 crores under a sanction dated 22.04.2020.

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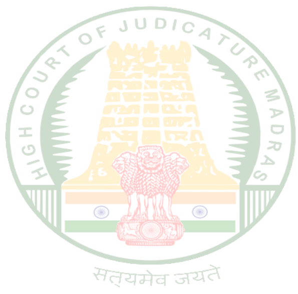

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3.9. The plaintiff would further contend that, since the respondent bank did not favorably consider its requests regarding release of a portion of the collateral securities and reduction of the rate of interest, it ultimately decided to close its loan accounts with the respondent bank. Accordingly, on 08.09.2020, the plaintiff settled the outstanding liabilities and sought closure of the accounts. However, the respondent bank allegedly declined to release the title deeds and issue the closure certificate insisting the plaintiff to pay the differential interest amount claimed under the condition incorporated in the sanction memorandum dated 06.05.2019. The bank also demanded commitment charges in respect of certain facilities that had been sanctioned but not availed by the plaintiff.

3.10. The plaintiff requested waiver of the differential interest and commitment charges on the ground that the facilities had not been utilized and also that the demands were otherwise unjustified. The respondent bank, however, declined the request. Due to the necessity of obtaining the title deeds and closure certificate in order to secure credit facilities from other banks offering finance at substantially lower rates of interest, the plaintiff

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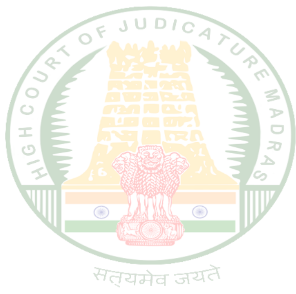
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paid the amounts demanded under protest. After obtaining the discharge documents, release of securities and closure certificate, the plaintiff shifted its banking arrangements to another financial institution. Thereafter, claiming that the amounts collected towards differential interest pursuant to the condition contained in the sanction memorandum dated 06.05.2019 and the commitment charges were illegal and not recoverable in law, the plaintiff instituted the present suit seeking recovery of the said amounts together with consequential reliefs.

4. The brief averments of the written statement filed by the defendants are as follows:-

4.1. The defendant bank filed a written statement denying the allegations made in the plaint and contended that the plaintiff was liable to pay the commitment charges as well as the differential interest in view of the specific clauses contained in the sanction memorandum dated 06.05.2019, which had been accepted by the plaintiff. According to the defendant, the reduction in the rate of interest was granted subject to the condition that, in the event of takeover of the loan account by another bank,

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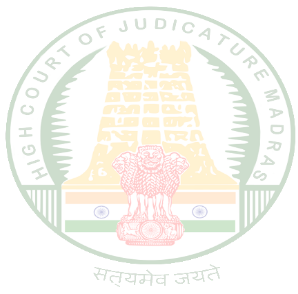
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the plaintiff would be liable to pay the said charges.

4.2. The defendant further contended that, since the loan facilities had been sanctioned and enjoyed by the plaintiff, the commitment charges were legally recoverable. It was also stated that the defendant had made the claim strictly in accordance with the contractual terms agreed upon between the parties. Hence, the defendant prayed for dismissal of the suit. On the basis of the pleadings, the learned Trial Judge framed necessary issues and proceeded the trial.

5. On the side of the plaintiff, one witness was examined as P.W.1 and documents were marked as Exhibits A1 to A13. On the side of the defendant bank, the Branch Manager was examined as D.W.1. However, no document was marked on the side of the defendant.

6. The learned Trial Judge, upon consideration of the oral and documentary evidence available on record, dismissed the suit filed by the plaintiff/appellant holding that, in terms of the contractual conditions, the

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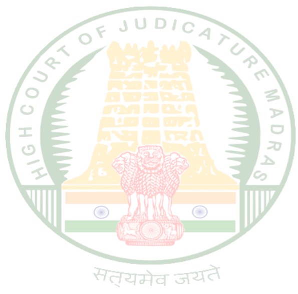

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defendant bank was entitled to recover the differential interest as well as the commitment charges. The learned Trial Judge further held that, since the loan facilities had been availed and enjoyed by the plaintiff, the levy of commitment charges was justified. Aggrieved by the said judgment and decree dated 05.11.2024, the plaintiff has preferred the present appeal before this Court.

7. Submission of the learned Senior Counsel appearing for the appellant:

7.1. The learned Senior Counsel for the appellant/plaintiff would submit that the Court below failed to properly appreciate the specific and consistent case of the plaintiff. According to the plaintiff, the respondent bank had no legal authority to demand the differential interest on the basis of the sanction memorandum dated 06.05.2019, since the said condition was never unconditionally accepted by the plaintiff. The learned Senior Counsel appearing for the plaintiff/appellant would submit that the rider clause incorporated in the sanction memorandum dated 06.05.2019 is contrary to the fundamental principles governing the law of contracts and is also

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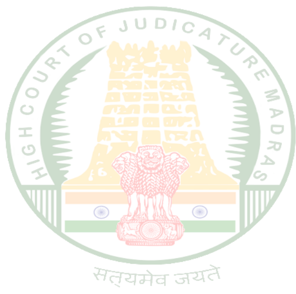

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opposed to public policy. According to the learned Senior Counsel, the said rider clause is, therefore, void and unenforceable in law. immediately upon receipt of the sanction memorandum, the plaintiff, by letter dated 03.06.2019, specifically objected to the disputed condition and requested deletion of the same. the signature also obtained in the sanction memorandum dated 06.05.2019 after the receipt of communication dated 03.06.2019 and therefore, according to the learned Senior Counsel appearing for the appellant, it cannot be construed as unconditional acceptance of the disputed clause, particularly when the plaintiff had already recorded his protest and reservation through the communication dated 03.06.2019.

7.2. The learned Senior Counsel would further submit that under Section 7 of the Indian Contract Act, 1872, acceptance must be absolute and unqualified in order to result in a concluded contract. In the present case, the plaintiff never accepted the disputed condition relating to recovery of the differential interest. On the contrary, the communications placed on record clearly establish that the plaintiff consistently opposed the said

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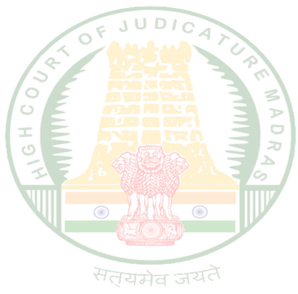

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condition. Therefore, the alleged acceptance amounted only to a counter-offer which, in law, would not result in a concluded acceptance. It is further submitted that even in the earlier sanction communication issued prior to the sanction memorandum dated 06.05.2019, no such condition regarding recovery of differential interest was incorporated and the rate of interest was prescribed only at 11.70%. Subsequently, the respondent bank unilaterally introduced the disputed clause in the sanction memorandum dated 06.05.2019. Even thereafter, the plaintiff, through subsequent communications, reiterated that he can never agree to such a condition.

7.3. The learned Senior Counsel would submit that such unilateral recovery, without lawful consensus ad idem between the parties, is opposed to the fundamental principles governing contracts and is also against public policy. Hence, the disputed clause itself is unenforceable in law. Accordingly, it is contended that the claim made by the respondent bank towards the alleged differential interest is legally unsustainable and the learned trial Judge failed to properly consider the above vital aspects in the correct perspective.

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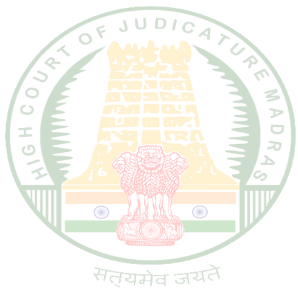
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7.4. The learned Senior Counsel appearing for the plaintiff further submitted that the finding of the learned trial Judge that there existed a binding contract between the plaintiff and the defendant bank merely on the basis of continuation of banking transactions from May 2019 to September 2020 is legally unsustainable. According to the learned Senior Counsel for the plaintiff, in terms of Section 7 of the Indian Contract Act, it was incumbent upon the defendant Bank to respond to the plaintiff's various communications seeking deletion of the clauses contained in the Sanction Memorandum dated 06.05.2019. It is contended that, in the absence of any such response, there was an implied acceptance of the plaintiff's request for deletion of the said clauses. The learned Senior Counsel further submitted that, notwithstanding the plaintiff's communications, the defendant Bank continued the existing credit facilities and sanctioned the further term loan and working capital loan extension without insisting upon an unconditional acceptance of the subsequent Sanction Memorandums. Such conduct, according to the learned Senior Counsel, amounts to acceptance by conduct of the plaintiff's counter-offer. Consequently, the parties stood governed by the modified terms proposed by the plaintiff and not by the original terms

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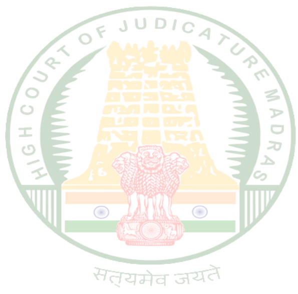

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contained in the Sanction Memorandum dated 06.05.2019. Therefore, the defendant Bank has no cause of action to recover commitment charges, interest, or any other amount founded upon the clauses contained in the Sanction Memorandum dated 06.05.2019.

7.5. Subsequently, a different term loan proposal was processed by the bank. However, the plaintiff never accepted nor appropriated the said loan. On account of the conditions imposed by the bank, including refusal to release the collateral securities and refusal to reduce the rate of interest, the plaintiff did not proceed with the said transaction. Therefore, according to the learned Senior Counsel, the finding of the learned trial Judge runs contrary to the pleadings and evidence adduced by the bank. The learned trial Judge erroneously shifted the burden of proof upon the plaintiff by holding that, unless the plaintiff expressly refused to accept the loan, the subsequent transactions amounted to acceptance of the terms of the Sanction Memorandum. The learned Senior Counsel would further contend that, under Section 7 of the Indian Contract Act, 1872, an acceptance must be absolute and unqualified in order to result in a concluded contract. If the

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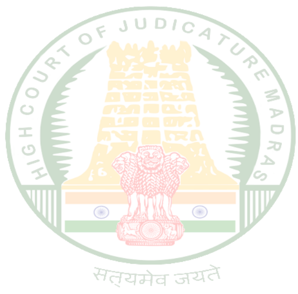

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offeree varies the terms of the proposal or expressly refuses to accept any of its conditions, such response amounts to a counter-offer and not an acceptance. In such circumstances, it is for the proposer, namely the respondent Bank, either to accept or reject the counter-offer. Where the proposer acts upon the counter-offer without rejecting it, there is an implied acceptance of the modified terms, thereby resulting in a concluded contract on the basis of the counter-offer.Developing the above submission, the learned Senior Counsel would argue that the Bank, by its subsequent conduct, accepted the counter-proposal made by the plaintiff/appellant. The subsequent sanction memoranda did not reiterate or insist upon the disputed rider clause. On the contrary, the Bank proceeded to sanction and disburse the loan facilities, thereby clearly evincing its intention to act upon the modified terms. Consequently, the original rider clause contained in the sanction memorandum dated 06.05.2019 stood waived or abandoned by conduct. The learned trial Judge failed to appreciate that the plaintiff had already furnished substantial securities, the value of which exceeded the working capital limits sanctioned by the defendant Bank. In such circumstances, the mere continuation of banking transactions could not be

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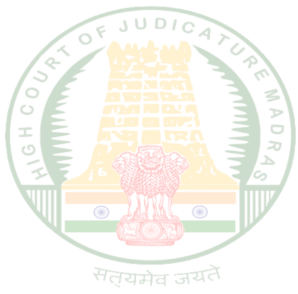

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construed as an unconditional acceptance of the disputed terms of the Sanction Memorandum.

7.6. It was further contended that the bank sought to recover only the differential interest on the strength of the sanction memorandum dated 06.05.2019 and the conditions incorporated therein. The Court below erred in extending the applicability of the said sanction memorandum to the subsequent continuation of the account till September 2020, despite the absence of signature of the plaintiff in the said sanction memorandums.

7.7. The learned Senior Counsel also assailed the further finding of the trial Court that the continuance of banking transactions for about sixteen months itself established acceptance of the contractual terms. According to him, several communications had been addressed by the plaintiff objecting to the conditions imposed by the bank and at no point of time did the plaintiff agree to the revised terms. The transaction in question related to the 2020 term loan, which was never accepted by the plaintiff. The bank unilaterally sanctioned the loan and credited the amount into the plaintiff's

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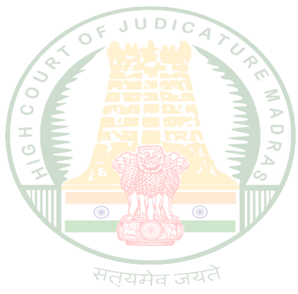

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account. However, the plaintiff never utilized the said amount in view of the onerous conditions imposed by the bank.

7.8. The learned Senior Counsel would therefore submit that, in the absence of any concluded acceptance of the original sanction memorandum containing the disputed rider clause, the respondent Bank cannot subsequently seek to enforce the said clause or claim the differential rate of interest on its basis. It is further submitted that, notwithstanding the plaintiff's repeated communications, the Bank sanctioned and disbursed additional loan facilities without obtaining the plaintiff's consent. According to the learned Senior Counsel, the plaintiff had specifically requested the Bank to release the securities furnished in respect of Metal Sheet Company and to issue the necessary permission to enable the plaintiff to avail additional credit facilities from a third-party bank. However, the respondent Bank neither acceded to those requests nor resolved the disputes that had arisen between the parties.

7.9. The learned Senior Counsel would also point out that, in several

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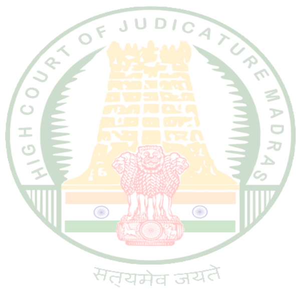

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instances, the Bank sanctioned and disbursed loan facilities without obtaining the plaintiff's signature on the relevant sanction memoranda. In certain cases, the signatures were obtained only after a considerable lapse of time, while in other cases no signatures were obtained at all. According to the learned Senior Counsel, this conduct was attributable to the strained relationship that had developed between the parties, particularly after the plaintiff requested closure of the loan accounts and objected to the Bank's refusal to release the securities. On the above submissions, the learned Senior Counsel prayed that the appeal be allowed by setting aside the judgment and decree of the learned Trial Judge.

7.10. To substantiate his submissions, the learned Senior Counsel appearing for the plaintiff relied upon number of precedents.

8. Submission of the learned Counsel appearing for the bank:

8.1. *Per contra*, the learned counsel appearing for the bank submitted that the learned trial Judge had correctly appreciated the entire sequence of events between the parties. According to the learned counsel, the plaintiff

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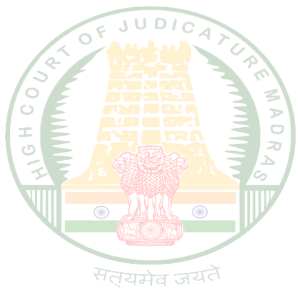
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had continuously transacted with the respondent bank from 2019 till September 2020 and had maintained customer relationship with the bank for more than sixteen years. Having continued such business relationship, the plaintiff cannot now contend that there was no agreement between the parties.

8.2. The learned counsel further submitted that the conduct of the plaintiff amounted to acceptance and appropriation of the facilities extended by the bank and that the plaintiff cannot subsequently reprobate the same. It was also contended that once the conditions were incorporated in the sanction memorandum dated 06.05.2019, the bank became entitled to recover the differential rate of interest.

8.3. The learned counsel for the bank further submitted that though the plaintiff had purportedly accepted the sanction subject to the letter dated 06.06.2019, the said conditional acceptance was never accepted by the bank. At the same time, the plaintiff never expressly declined the sanction granted under the memorandum dated 06.05.2019. Hence, according to the

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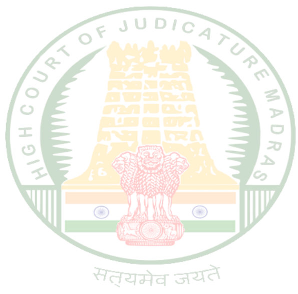
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bank, the plaintiff remained liable to pay the differential interest consequent upon closure of the change -over account and transfer of dealings to another bank.

8.4. Insofar as the claim for commitment charges is concerned, the learned counsel submitted that the loan had already been sanctioned and the sanctioned amount remained in the plaintiff's account till September 2020. Therefore, according to the bank, the facility stood duly sanctioned and kept available to the plaintiff, thereby entitling the bank to recover commitment charges.

8.5. The learned counsel for the bank finally submitted that the conditions imposed under the sanction memorandum were not opposed to public policy, as they were in consonance with the guidelines issued by the Reserve Bank of India. Hence, there was no legal basis to hold the said conditions to be void on the ground of public policy. On the above submissions, the learned counsel prayed for confirmation of the judgment and decree passed by the trial Court.

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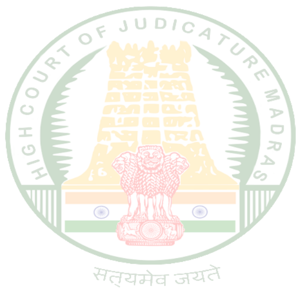
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8.6. The learned counsel for the bank mainly advanced his submissions on two grounds. Firstly, he contended that the judgments relied upon by the bank have consistently held that where acceptance of a contract is clear, unequivocal, and reflected through conduct, there is no necessity for independent proof that the acceptance was qualified and absolute. According to the learned counsel, Section 7 of the Indian Contract Act contemplates that acceptance may be expressed in a usual and reasonable manner. In the present case, following the ordinary banking procedure, the loan was sanctioned at the concessional rate of interest of 11.5%, subject to the conditions incorporated in the sanction memorandum dated 06.05.2019.

8.7. According to the learned counsel, despite receipt of the sanction memorandum and continuance of banking transactions thereafter, the plaintiff never unequivocally repudiated the said conditions. Hence, the plaintiff cannot subsequently contend that there was no concluded contract between the parties. In this regard, the learned counsel relied upon several precedents to contend that acceptance may be inferred from the conduct of

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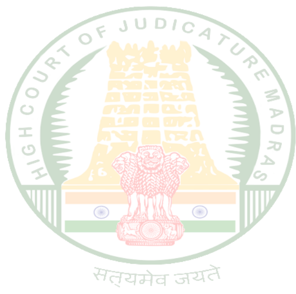

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the parties and surrounding circumstances.

8.8. The learned counsel further submitted that the second limb of Section 7(2) of the Indian Contract Act has no application to the facts of the present case and that only the first limb governing absolute and unqualified acceptance would apply. According to him, once the plaintiff accepted the benefit of concessional interest without rejecting the facility itself, the plaintiff cannot selectively repudiate the conditions subject to which such concessional rate had been granted. Therefore, according to the learned counsel, the learned trial Judge rightly dismissed the suit, for which reliance was also placed on several judicial precedents.

8.9. The learned counsel for the bank further submitted that the bank was fully justified in levying commitment charges once the loan amount had been sanctioned and earmarked in favour of the plaintiff. Merely because the plaintiff did not ultimately utilize the sanctioned amount, the same cannot disentitle the bank from claiming commitment charges. According to the learned counsel, once an application was made by the plaintiff and the

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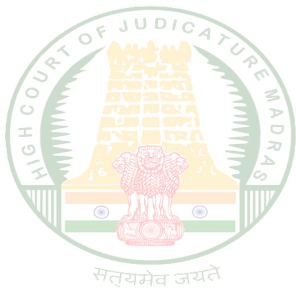
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loan was sanctioned by the bank, the liability to pay commitment charges automatically arose. The subsequent refusal of the plaintiff to avail the facility on account of disagreement with certain conditions would not absolve the plaintiff from such liability. In support of the said contention, the learned counsel also relied upon several documents and precedents.

8.10. The learned counsel appearing for the respondent bank also cited several judgments of the Hon'ble Supreme Court and various High Courts, including this Court:

9. This Court shall now consider the rival submissions advanced on either side, the materials placed on record, and the precedents relied upon by the respective parties.

10. In this appeal, the following points arise for determination:

i) Whether the clause incorporated in the Sanction Memorandum dated 06.05.2019 is valid, binding, and enforceable against the plaintiff?

ii) Whether there was a valid acceptance of the terms

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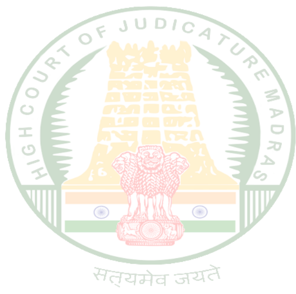

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> *and conditions contained in the Sanction Memorandum dated 06.05.2019, and consequently, whether the defendant Bank is entitled to claim the differential rate of interest on the basis of the said memorandum?*

11. Discussion on the question "*Whether the clause incorporated in the Sanction Memorandum dated 06.05.2019 is valid, binding, and enforceable against the plaintiff?*":

11.1. This is a classic case of oppression and commercial coercion employed by a nationalized bank under the guise of its absolute supervisory powers over a helpless borrower. The appellant had been maintaining banking relations with the respondent bank since 1963 and had been availing working capital facilities on a yearly basis without committing even a single default. Even according to the bank, the appellant was one of its most valued customers. However, the appellant's entire business came to a standstill because of the arm-twisting methods adopted by the banking authorities by imposing conditions opposed to public policy, thereby

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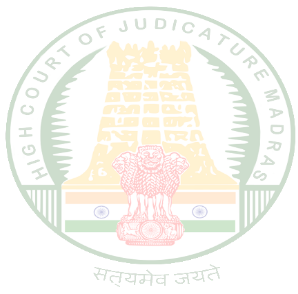
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destroying a banking relationship that had subsisted smoothly for more than fifty years.

11.2. Since the entire claim of the respondent bank is founded upon the rider clause incorporated in the sanction memorandum dated 06.05.2019, marked as Exhibit A10, it is necessary to briefly examine the plaintiff's case. The plaintiff has specifically pleaded in para 8 of the plaint that the rider clause had no legal effect. Hence ,this Court is required to examine the plaintiff's contention regarding the validity of the rider clause and for proper appreciation of the controversy, this Court has extracted rider clause in the sanction memorandum dated 06-05-2019 which reads as

> *"HO cir 133/2019: In case where the account is taken over by other banks/FIs, concessions in RoI/ Charges extended for the last one year to be recovered before closure. (This shall be part of the sanction conveying letter and accepted by the borrower.)"*

11.3. In the present case, the rate of interest charged by the respondent

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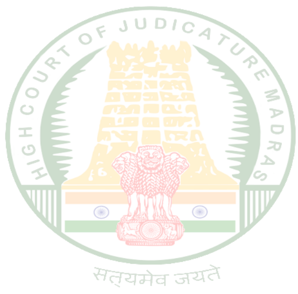

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bank was abnormal and exorbitant in comparison with other Banks . Therefore,the borrower, who had not committed even a single default for several decades, was constrained to shift his account to another bank solely because the other bank offered credit facilities at a substantially lower rate of interest and he made frequent request to allow multiple banking operations with Axis bank etc on the account of sufficiency of security. Despite holding valuable title deeds and securities the value of which was several times more than the working capital loan facilities , the bank authorities adopted unfair and oppressive practices to enforce a condition which is ex facie opposed to public policy.

11.4. It is always open to a borrower to approach any financial institution or bank of his choice for availing credit facilities. The right to carry on occupation, trade, and business under Article 19(1)(g) of the Constitution of India includes the freedom to choose a financial institution of one's choice for availing credit facilities. Significantly, the penal clause imposing prepayment charges for shifting the account to another bank did not find place in the earlier sanction memoranda issued to the borrower

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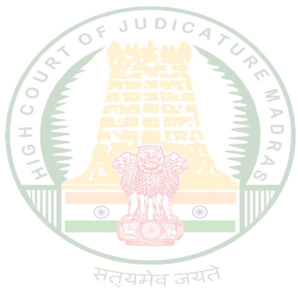
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during the longstanding banking relationship prior to the sanction communications issued during January 2018 and January 2019 and the same was introduced only after the plaintiff had expressed their intention to switch over to other bank on the account of exorbitant interest.

11.5. The penal condition imposing 2% prepayment charges merely because the borrower intended to shift the account to another bank is not only unconscionable, but also opposed to public policy. A borrower cannot be compelled to continue with a particular bank against his commercial interest, particularly when other financial institutions are willing to extend credit facilities at substantially lower rates of interest. The right of a borrower to approach another bank for better financial terms forms part of legitimate commercial freedom and cannot be curtailed by oppressive contractual stipulations. Furthermore, this court takes judicial notice of the RBI Fair Practices Code adopted by the respondent Canara Bank, which mandates transparency, fairness, and non-coercive banking practices in dealing with borrowers.which also insists to treat the customers as guests.

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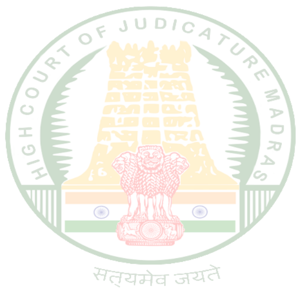
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11.6. Further, the conduct of the respondent bank in withholding the original title deeds and other valuable documents, despite the borrower not having committed any wilful default, amounts to an unfair banking practice. The retention of documents solely to prevent the borrower from shifting the account to another bank clearly reflects arbitrary and coercive conduct contrary to the RBI Fair Practices Code and established banking norms.

11.7. Therefore, in the above circumstances, the imposition of a condition restraining the borrower from shifting the account, coupled with a penal clause demanding 2% prepayment charges, despite repeated objections raised by the borrower through emails and communications acknowledged by the bank officials, amounts to imposition of an unconscionable condition opposed to public policy, violative of the RBI Fair Practices Code adopted by the respondent Canara Bank and contrary to the constitutional guarantee under Article 19(1)(g) of the Constitution of India, namely the right to carry on occupation, trade, and business, which includes the freedom to choose a financial institution of one's choice for availing credit facilities. Therefore, the claim made by the respondent bank

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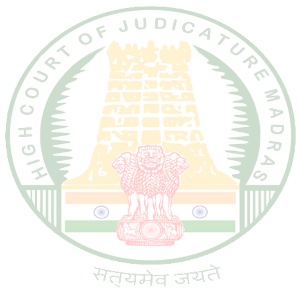
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on the basis of such a condition is wholly unsustainable and unenforceable in law. Accordingly, this Court is inclined to set aside the said demand and constrained to hold that the respondent bank is not entitled to enforce the penal clause and recover difference of interest as stated in their claim dated 25.09.2020 as in EX.A.21.

12. Discusion on the question *"Whether there was a valid acceptance of the terms and conditions contained in the Sanction Memorandum dated 06.05.2019, and consequently, whether the defendant Bank is entitled to claim the differential rate of interest on the basis of the said memorandum"?*

12.1. Now the next controversy which revolves around Exhibit A10, namely, the sanction memorandum dated 06.05.2019 is the question whether the plaintiff had accepted the rider clause so as to constitute a concluded and binding contract between the parties and for proper appreciation of the controversy, this Court has extracted the relevant portion of the communication of plaintiff dated 06-06-2019 and rider clause as well

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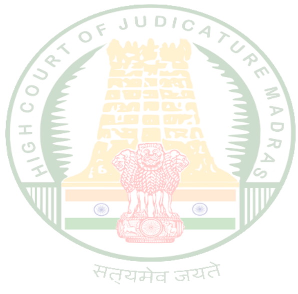
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as the endorsement made by the plaintiff while accepting the sanction memorandum dated 06-05-2019:

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Canara Bank
TIRUNELVELI JUNCTION MAIN BRANCH

Tel : 0462 233397
email: cb1119@canarabank.com

OTHER COMFORTS:

Personal Guarantee : (Rs. in crs)

Name	Net worth as on 31.3.2018	Source and date
Sri Suresh Jagannathan	11.88	CA certificate dated 26.12.2018

a) Corporate Guarantee: Nil
b) PDCs or any other comfort to be specified: Nil
c) Availability of ECGC Guarantee/Policy :: Nil

SANCTION TERMS

		Existing	Proposed
1.	Stock statements/BD/MSOD statements	Detailed	Detailed
2.	Periodicity	Monthly	Monthly
3.	Due date for submission	07th of succeeding month	07th of succeeding month
4.	Periodicity of inspection a) Local b) Outstation	Quarterly	Quarterly
5.	Type of LC / Purpose of LC a) Revolving/Non revolving b) Clean c) Standby	Non Revolving NA NA	Non Revolving NA NA
6.	Period of LC	90 days	90 days
7.	Usance for LCs	180 days	180 days
8.	Period of Bank Guarantee	1 year exclusive of claim period of 6 months	1 year exclusive of claim period of 6 months
9..	Purpose of Bank Guarantee (Specify EMD/SD/ Performance /Financial/Bid Bond)	Performance / Financial Guarantee	Performance / Financial Guarantee

a) Allotment of ASC Code:

✓ Allotment of ASC code S1 to the account.

SANCTION TERMS AND CONDITIONS:

As per annexure.

All other terms and conditions as applicable to the respective schemes are to be strictly complied with.

HO cir 133/2019 : In case where the account is taken over by other banks/FIs, concessions in RoI/ Charges extended for the last one year to be recovered before closure. (This shall be part of the sanction conveying letter and accepted by the borrower.)

Accepted sub jct to our letter June 3, 2019

(PARAMASIVAN E)
CHIEF MANAGER

3 | M/s. KLRF Ltd – Branch: Tirunelveli Junction (1119) –

Received 18 JAN 2021 Sheristadar

Received 24 FE... Sheristadar

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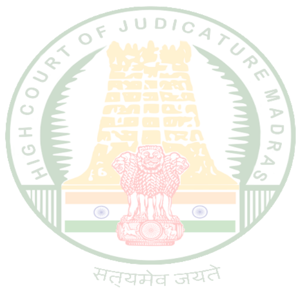
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The material content of the letter dated 03.06.2019 which reads as follows:

Reply from the plaintiff dated 3rd June, 2019:

Sl. No.	Page No.	Particulars	Corrections / Deletion / Remarks
4	*3*	*HO Cir 133/2019: In case where the account is taken over by other Banks/FIs, concessions in ROI/Charges extended for the last one year to be recovered before closure*	*KLRF does not agree for this condition. Please delete this clause*

We request you to kindly consider our request and accord your approval at the earliest.

Kindly note that the company has accepted your sanction letter subject to aforesaid corrections/deletions required to be made therein. This letter is also part and parcel of the documents be executed by the Company to avail the working capital facilities."

12.2. Even prior to the communication of the plaintiff dated 06.16.2019, the plaintiff sent request on 10.01.2019 which reads as follows:

> " *We wish to thank you for the revised sanction memorandum dated 5th January 2019 reducing the interest rate*

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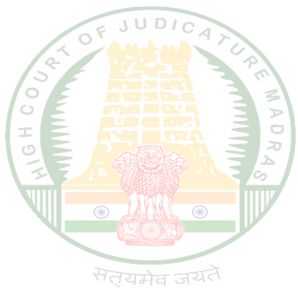

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from 13.70% to 11.45% per annum.

We refer our letter dated 25th Jun 2018, 20th Dec 2018 and 3rd January 2019 requesting for NOC from Canara Bank for introducing Axis Bank as a third banker.

We have requested for the interest rate reduction with effect from 2nd May 2018 but we have received the approval for revised interest on 5th January 2019. Such inordinate delays have seriously impacted our operations adversely.

As mentioned in our earlier letters HDFC is charging 10.45% p.a. on our OCC account. We have received an offer from Axis bank at 10.05% per annum.

We have been instructed by our board of directors to avail the most competitive rates and hence we would like to bring in Axis Bank as a third banker and avail Rs.15 Crores working capital facilities from them. But we will continue to avail Rs. 14.50 Crores (Flour mill division Rs.13.50 Crs and Sheet Metal division Rs.1.00 Cr) from Canara Bank.

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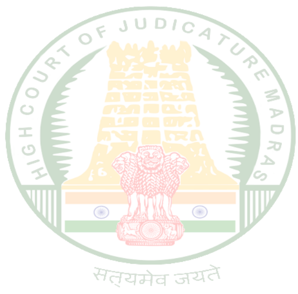
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> *Hence, we request you to kindly issue a No Objection Certificate for the new multiple banking arrangement including Axis Bank and HDFC Bank."*

12.3. To consider whether the above terms constitute a valid acceptance in terms of Section 7 of the Indian Contract Act, 1872, the provisions of Section 7 of the contract extracted hereunder:

> *"In order to convert a proposal into a promise the acceptance must—*
>
> (1)*be absolute and unqualified;*
>
> (2)*be expressed in some usual and reasonable manner, unless the proposal prescribes the manner in which it is to be accepted.*
>
> *If the proposal prescribes a manner in which it is to be accepted, and the acceptance is not made in such manner, the proposer may, within a reasonable time after the acceptance is communicated to him, insist that his proposal shall be accepted in the prescribed manner, and not otherwise; but, if he fails to do so, he accepts the acceptance"*

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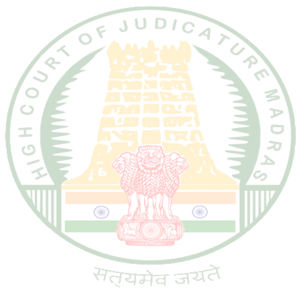

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12.4. A reading of Section 7 makes it clear that, in order to convert a proposal into a promise, the acceptance must be absolute and unqualified. In the present case, the materials on record indicate that right from the stage when the respondent bank enhanced the rate of interest, the plaintiff was exploring the possibility of shifting its banking arrangements to other institutions offering credit at lower rate of interest. The bank unilaterally sanctioned the loan vide sanction memorandum dated *6th May 2019* subject to the Rider Clause . However, immediately upon receipt of the sanction memorandum, the borrower/plaintiff addressed a communication dated 03.06.2019 seeking deletion of the said Rider Clause. Significantly, the plaintiff's signature was not obtained on the date of issuance of the sanction memorandum. The signature was obtained only subsequently, after the plaintiff had already communicated its objections to the rider clause vide the communication dated 03.06.2019 with the following response: "***accepted subject to our letter June 3,2019***". In such circumstances, it cannot be conveniently presumed that there was an unconditional acceptance of all the terms contained in the sanction memorandum and it is abundantly clear that his acceptance was conditional upon deletion of the

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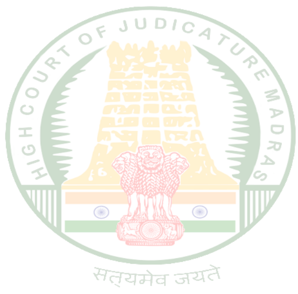
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Rider Clause. Such a response cannot prima facie be construed as an unconditional acceptance; rather, it partakes the character of a counter-offer. In commercial transactions, once a counter-offer is made, the original offer does not attain finality unless the counter-offer is accepted or otherwise dealt with by the offeror.

12.5. In this regard, it is relevant to extract the following principles of Hon'ble Supreme Court ***Deokar Exports Private Limited -vs- New India Assurance Company Limited*** reported in ***(2008) 14 SCC 598*** relating to counterproposal and the legal consequences flowing from a counterproposal and the modes by which such a proposal may be accepted or rejected:

"13. A policy of insurance is a contract based on an offer (proposal) and an acceptance. The appellant made a proposal. The respondent accepted the proposal with a modification. Therefore, it was a counter-proposal. The appellant had three choices. The first was to refuse to accept the counter-proposal, in which event there would have been no contract. The second was to accept either expressly or impliedly, the counter-proposal of the respondent (that is, the respondent's acceptance with

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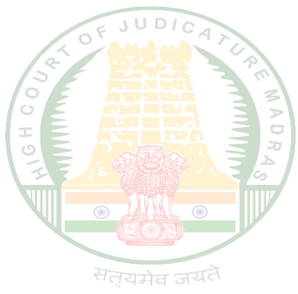
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modification) which would result in a concluded contract in terms of the counter-proposal. The third was to make a counter-proposal to the counter-proposal of the respondent in which event there would have been no concluded contract unless the respondent agreed to such counter-counter-proposal.

12.6. From the above, it is clear that in the case of a counterproposal, three possible courses are available to the original proposer First, the proposer may reject to the counterproposal. In such an event, no consensus ad idem arises between the parties and consequently no concluded contract comes into existence.

Secondly, the proposer may expressly or impliedly accept the counterproposal. Upon such acceptance, the original proposal stands superseded and a concluded contract emerges on the terms contained in the counterproposal.

Thirdly, where a counterproposal is made to the counter proposal and it has not been accepted by the party, then again, the original proposer can not say that concluded contract exists.

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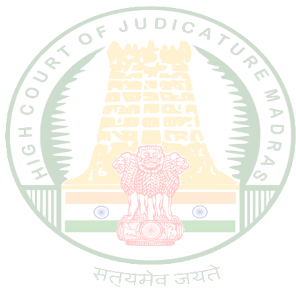
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12.7. Applying the above principles to the present case, once the borrower expressly communicated its unwillingness to accept the rider clause and sought its deletion, the Bank was required either to reject the counterproposal or to communicate its insistence upon the rider clause. However, the Bank did neither. Any response varying the terms of the proposal or imposing further conditions would amount only to a counter-offer. The conduct of the parties requires examination in the light of the principles governing offer, acceptance and counter-offer.

12.8. The communications exchanged between the parties demonstrate that the borrower had specifically conveyed through repeated email communications that he was willing to continue the banking relationship only upon reduction of the rate of interest and removal of the penal clause relating to shifting of the account to another financial institution. The sanction letter itself clearly disclosed that the sanction was "subject to" the borrower's request made in the letter dated June, 2019.

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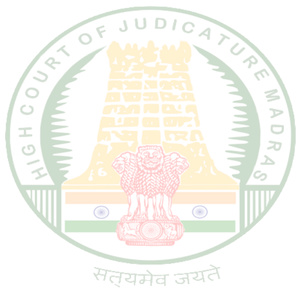
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12.9. The usage of the expression "subject to" creates a strong presumption that the parties never intended to enter into an immediately binding and concluded contract without the pending issues between them being expressly resolved. In view of above circumstances, a duty was cast upon the respondent Canara Bank either to expressly reject the counter-offer made by the borrower or to refuse continuation of the facility unless the borrower unequivocally accepted the disputed conditions.

12.10. Thereafter, the Bank neither rejected the said condition nor reiterated the applicability of the rider clause while extending and operating the loan facility. A reading of the rider clause in the sanction memorandum bears the date 06.05.2019, the endorsement made by the plaintiff, and the subsequent events, particularly the ad hoc extension of working capital facilities granted under the sanction memorandum dated 22.04.2020 and sanctioning of two more terms loans without reiterating the said rider condition amounts "to implied acceptance of the counterproposal".

12.11. The subsequent conduct of the parties clearly demonstrates that

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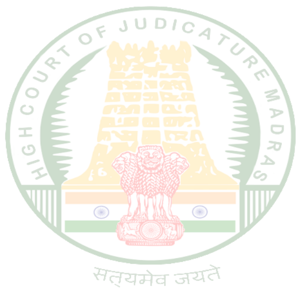
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the bank acted upon the plaintiff's conditional acceptance. The continued conduct of the parties, coupled with the silence of the bank authorities in not expressly rejecting the borrower's objections and counter-offer, gives rise to a deemed acceptance of the modified terms proposed by the borrower. Therefore, this Court finds that the principle of *sub silentio* squarely applies to the facts of the present case. By their conduct and silence, the bank authorities must be deemed to have accepted the counter-offer made by the borrower seeking deletion of the oppressive penal clause.

12.12. Therefore, the bank is legally deemed to have accepted the plaintiff's request for deletion of the Rider Clause. Accordingly, this Court holds that there was an implied acceptance of the borrower's counterproposal and a concluded contract came into existence without the rider clause. Accordingly, this Court holds that the Rider Clause was never intended to be operative between the parties and was not acted upon. The borrower had never unconditionally accepted the said condition. The principle of acquiescence and implied acceptance of borrower's communication dated 3-6-2019 to delete the rider clause would operate

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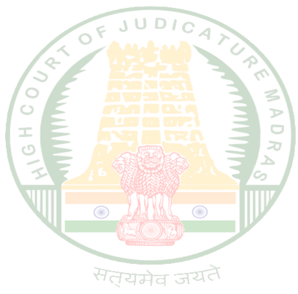

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against the bank in the facts of the present case Consequently, the bank is not entitled to rely upon the said Rider Clause for claiming differential interest. Any demand founded solely upon the Rider Clause is legally unsustainable. Hence, the bank has no right to recover the difference in interest on the basis of the said Rider Clause.

12.13. Once the borrower had discharged the liability and closed the transaction, the respondent bank could not thereafter invoke a disputed and unconcluded condition to retain amounts or claim additional charges. Therefore, the dismissal of the suit filed by the borrower seeking refund of the excess interest and penal charges suffered from serious legal infirmity. Consequently, this Court is inclined to set aside the findings of the Court below and grant appropriate relief in favour of the borrower.

13. Discussion on the question of "*Whether the defendant Bank is entitled to recover commitment charges when the loan amount was unilaterally credited to the plaintiff's account without obtaining the plaintiff's signature in token of acceptance of the Sanction Memorandum*

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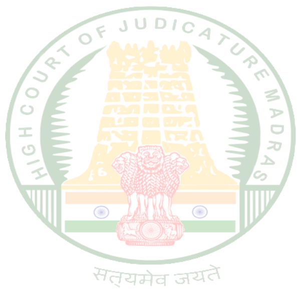

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dated 22.04.2020, 09.09.2020, etc.?":

13.1. So far as the commitment charges are concerned, the materials available on record clearly establish that, even prior to the issuance of the Sanction Memorandum and also subsequent to the Sanction Memoranda dated 22.04.2020, 09.09.2020 and other relevant dates, the borrower had specifically communicated to the respondent Canara Bank that he would avail the proposed loan facility only on the condition that the land and building pertaining to the sheet metal division is released from the list of collateral securities. The relevant communications are as follows:

13.1.1. The relevant portions of Ex.A12, being the copy of the information communicated by the plaintiff to the defendant Bank through e-mail regarding the resolutions passed on 14.02.2020, read as follows:

> *" 8.The board of directors of Kovilpatti Lakshmi Roller Flour Mills limited has taken policy decision to give only the respective division's property as collateral security for the facilities provided. Hence, we request you to release the sheet metal division's land & buildings situated at*

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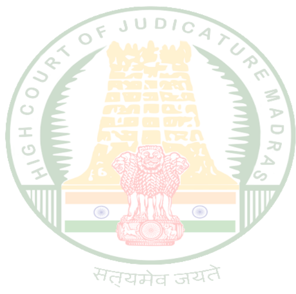

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> *Periyanaickenpalayam, total extent of 7.45 acres, given as collateral security for the working capital facilities."*

13.1.2. The relevant portions of Ex.A17 dated 22.05.2020, being the copy of the e-mail sent by the plaintiff to the General Manager, Canara Bank, Madurai, requesting the Bank to take up the matter with the appropriate authority, read as follows:

> *"As explained in our various letters and meetings we would like to request you to reduce the interest rates in line with the market rates. Presently we have been charged 11.70% p.a. which is very high as compared to market rates. We understand that other companies are availing loans at 9.00% p.a for their facilities.*
>
> *Canara Bank has sanctioned a term loan of Rs.77 Lakhs to KLRF for the office modernization at Gangaikondan. Also, we have received the sanction letter for WCDL of Rs.2.95 crores from Canara Bank, Sheet metal division's land has been included as a collateral security in both these sanction letters. As already communicated, we would like to avail both these loans subject to removal of Sheet Metal Division's land as collateral security.*

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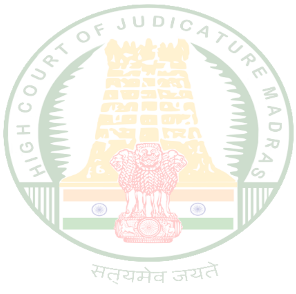
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Sheet metal unit of the company will be leased and hence we do not want to renew the sanctioned limit of Rs. 100 Lakhs for this unit. Hence, we request you to release the sheet metal property as collateral security."

13.1.3. The relevant portions of Ex.A19 dated 09.06.2020, being the copy of the e-mail addressed by the plaintiff to the General Manager, Canara Bank, Madurai, reiterating its earlier request, read as follows:

" As explained in our various letters and meetings we would like to request you to reduce the interest rates in line with the market rates. Presently we have been charged 11.70% p.a. which is very high as compared to market rates: We understand that other companies are availing loans at 9.00% p.a. for their facilities.

Canara Bank has sanctioned a term loan of Rs.77 Lakhs to KLRF for the office modernization, at Gangaikondan. Also, we have received the sanction letter for WCDL of Rs.2.95 crores from Canara Bank. Sheet metal division's land has been included as a collateral security in both these sanction letters. As already communicated, we would like to avail both these

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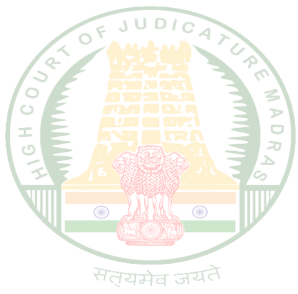
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loans subject to removal of Sheet Metal Division's land as collateral security.

Sheet metal unit of the company will be leased and hence we do not want to renew the sanctioned limit of Rs. 100 Lakhs for this unit. Hence, we request you to release the sheet metal property as collateral security.

KLRF's cash credit limit was due for renewal on 4th April 2020 for which we have received temporary extension till 30th June 2020. We would like request you to send us the renewal for the year 2020-21 with the reduced interest rates after excluding sheet metal division's land as collateral security.

Considering our long relationship with Canara bank, we hope you will consider our requests and approve. If you need further clarifications, we may have the conference call."

The borrower had insisted upon such release in view of the fact that the earlier dues had already been settled without any default and that the yearly working capital facilities had been regularly serviced for several decades.

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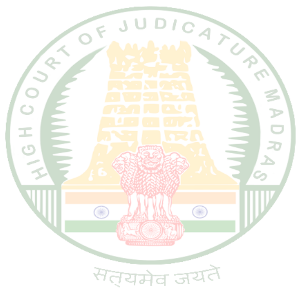

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13.2. The respondent bank, however, did not agree to the said condition. On the contrary, without obtaining unequivocal and unconditional acceptance from the borrower, the bank proceeded to unilaterally sanction and temporarily extend the loan facilities. The borrower, consistently voicing his objection, ultimately remitted and closed the entire liability without availing the facility.

13.3. In this case, it is an admitted case of the bank and also finding of learned trial judge that the Bank sanctioned all the loans unilaterally vide sanction memorandums without obtaining consent signature of plaintiff and hence the transactions without signature did not confer any cause of action to claim Commitment charges. Therefore, the very foundation for levy of commitment charges is absent in the present case. Commitment charges can arise only when there exists a concluded contract and when the borrower, after accepting the sanctioned facility, fails to utilise the same in accordance with the agreed terms. In the absence of unconditional acceptance by the borrower, no binding contractual obligation arose so as to enable the respondent bank to levy commitment charges.

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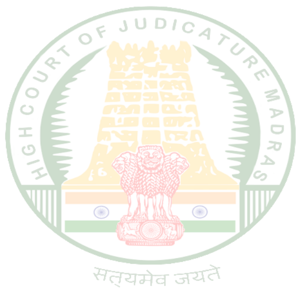
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14. Discussion on the concept of approbate and reprobate:

The learned Counsel appearing for the bank contended that once the plaintiff had availed the loan at a concessional rate of interest subject to the condition that, in the event of transfer of the account to another bank, the concessional benefit would stand withdrawn and differential interest would become recoverable, the plaintiff cannot subsequently protest that condition. According to the learned counsel, such a contention would amount to rewriting a concluded bilateral contract. He further submitted that a party cannot approbate and reprobate, namely, accept the beneficial portion of the contract while rejecting the burdensome portion. Hence, he prayed for confirmation of the judgment of the court below.

14.1. *Per contra*, the learned Senior counsel appearing for the plaintiff submitted that the impugned stipulation was obtained by force, coercion, and economic duress, and therefore the plaintiff is legally entitled to challenge the offending clause without repudiating the entire transaction. According to her, the bank occupied a dominant and advantageous

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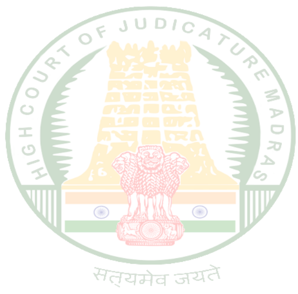

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bargaining position, whereas the plaintiff, being financially dependent upon the working capital facilities for continuation of business, was placed in an utter disadvantageous position. The bank was also keeping custody of all original title deeds and security documents of the plaintiff. In such circumstances, the plaintiff had no other alternative except to submit unwillingly to the unilateral demand imposed by the bank and make payment under protest.

14.2. The learned counsel further submitted that the apparent consent of the plaintiff was not free consent within the meaning of the Indian Contract Act, but consent was obtained under commercial compulsion and economic coercion. The bank, taking advantage of its dominant position, allegedly exerted illegitimate commercial pressure and threatened unlawful injury to the plaintiff's economic interests by withholding the release of securities and denying continuation of essential banking facilities. Therefore, the consent obtained for incorporation of the disputed clause stood vitiated by economic duress and undue influence. Such acceptance, according to the learned counsel, cannot be construed as voluntary assent in

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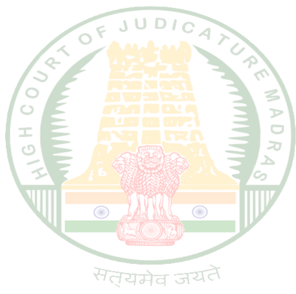

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the eye of law.

14.3. This Court finds considerable force in the said submission. When consent to a contractual stipulation is procured by economic coercion, commercial compulsion, or abuse of dominant bargaining position, the resultant consent ceases to be free consent. In such cases, it is always open to the aggrieved party to impeach that particular stipulation which was incorporated by use of duress, without necessarily repudiating the entire contract.

14.4. The said principle has been recognized by the Hon'ble Supreme Court in ***Central Inland Water Transport Corporation Ltd. v. Brojo Nath Ganguly*** reported in ***AIR 1986 SC 1571***, wherein the Apex Court held that unfair and unreasonable contractual terms imposed by a party enjoying superior bargaining power are liable to be struck down. The same principle was elaborately considered by the Bombay High Court in the judgment reported in ***AIR 1992 Bombay 309***, wherein it was observed that it is open

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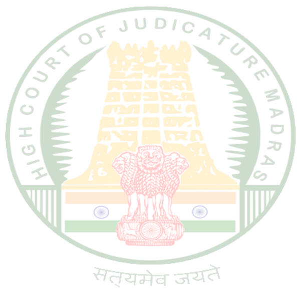

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to the victim of duress to impugn that part of the transaction or stipulation which had been incorporated by use of coercive pressure.

14.5. Therefore, the contention of the learned counsel for the bank that the plaintiff cannot selectively challenge a clause in a concluded bilateral contract cannot be accepted in the peculiar facts and circumstances of the present case. If a particular stipulation has been imposed by exerting economic duress, undue influence, or coercive commercial pressure, the affected party is legally entitled to repudiate that offending portion and seek recovery of the amount wrongfully recovered by the bank.

15. Discussion on the trial court finding:

15.1. Since the plaintiff's response amounted to a counter-offer, a corresponding duty arose on the part of the respondent bank either to reject the counter-offer and decline the facility or to expressly communicate its acceptance of the modified terms. The learned Trial Judge, however, appears to have proceeded on the premise that the burden was upon the plaintiff to reject the facility altogether. Such an approach, in the considered view of

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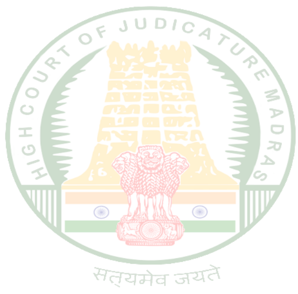

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this Court, overlooks the legal consequences flowing from a qualified acceptance under Section 7 of the Contract Act. Without considering the principles governing acceptance under Section 7 of the Indian Contract Act, the learned Judge proceeded solely on the basis that there existed a continuing lender–borrower relationship between the parties pursuant to the sanction memorandum dated 06.05.2019. On that basis, the learned Judge held that there was an implied acceptance of the terms contained in the sanction memorandum. Such a finding was rendered without identifying any positive act on the part of the plaintiff either accepting the rider clause or otherwise signifying assent to the modified terms. Mere continuation of the loan relationship or availing of the facility, in the facts and circumstances of the present case, cannot by itself constitute implied acceptance, particularly when the plaintiff had specifically communicated his objection to the rider clause and had accepted the sanction memorandum only subject to the conditions contained in his letter dated 03.06.2019.

15.2. The said finding is fundamentally contrary to the settled principles governing acceptance and counter-offer under Section 7 of the

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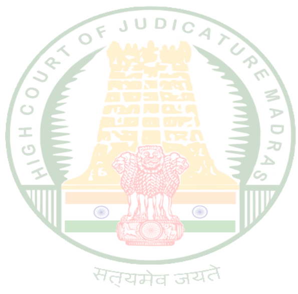

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Indian Contract Act. Once the plaintiff had proposed a variation to the rider clause, the original proposal could not be treated as accepted unless the bank expressly or impliedly assented to such variation. In the absence of such assent, no concluded contract incorporating the disputed rider clause could have legally come into force Therefore, this Court is unable to concur with the finding of the learned Judge that there was an implied acceptance of the rider clause. Consequently, the finding of the learned Judge on this aspect is liable to be set aside.

15.3. Furthermore, the learned Judge failed to appreciate that the subsequent conduct of the parties clearly indicates an unequivocal acceptance of the plaintiff's counter-proposal contained in the communication dated 03.06.2019. Applying the principles of implied acceptance and *acceptance sub silentio*, the conduct of the bank in proceeding with the transaction without rejecting the plaintiff's stipulation amounts to absolute assent to the modified terms proposed by the plaintiff. Once the plaintiff had accepted the sanction memorandum subject to the deletion or modification of the rider clause, the said communication legally

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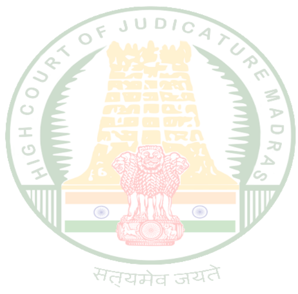
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constituted a counter-proposal. The subsequent acts of the bank, viewed in their entirety, demonstrate a clear acceptance of such counter-proposal. In such circumstances, the contractual relationship between the parties could only be governed by the terms emerging from the counter-proposal and its subsequent acceptance. Therefore, this Court is unable to agree that the rider clause continued to form part of the contract between the parties. On the contrary, the materials available on record indicate that the rider clause stood superseded by the plaintiff's counter-proposal, which was accepted by the bank through its conduct and silence coupled with subsequent performance.

15.4.The learned counsel appearing for the Bank would contend that the case is covered under Section 7(2) of the Indian Contract Act, 1872, which provides that where a proposal does not prescribe the manner in which it is to be accepted, the acceptance may be expressed in some usual and reasonable manner. According to the learned counsel, it is the routine practice of the Bank to grant renewal and ad hoc facilities on the same terms and conditions that existed earlier, and therefore the rider clause contained

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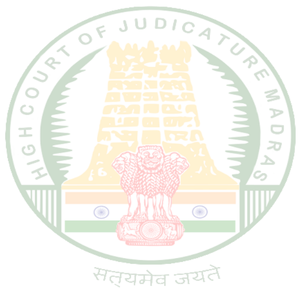

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in the sanction memorandum dated 06.05.2019 must be deemed to have been accepted by the plaintiff.

15.5. This Court is unable to accept the said contention. Firstly, as already discussed in the preceding paragraphs, the sanction memorandum dated 06.05.2019 did not amount to a valid acceptance of the alleged rider clause so as to constitute a concluded contract between the parties. Secondly, except making a bald assertion that the subsequent credit facilities were sanctioned on the same terms and conditions, the Bank has failed to adduce any acceptable evidence to establish the existence of such a usual and reasonable practice. On the contrary, the officials examined on behalf of the Bank have categorically admitted in their evidence that the plaintiff had not affixed his signature in any of the documents relating to the subsequent ad hoc credit facilities or term loan transactions. No material has been produced to show that the alleged condition was expressly carried forward and accepted by the plaintiff on each subsequent occasion. In the absence of any documentary evidence, this Court cannot presume the continuation of such a condition merely on the basis of the Bank's bare assertion.

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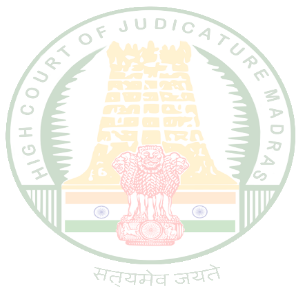
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15.6. Further, the records explicitly disclose that prior to the year 2018, no such condition was ever incorporated in any of the sanction memoranda issued by the Bank. It is also relevant to note that another financial institution, namely HDFC Bank, held a *pari passu* charge over the assets along with Canara Bank. In such circumstances, the contention that the alleged rider clause formed part of a usual and reasonable banking practice, or that it stood automatically incorporated into the subsequent transactions, is wholly unsustainable. Accordingly, the submission of the learned counsel for the Bank that the case falls within the ambit of Section 7(2) of the Indian Contract Act is entirely misconceived.

16. Conclusion:

Accordingly, the Commercial Appellate Division stands allowed with cost by setting aside the judgment and decree dated 05.11.2024 made in O.S.No.148 of 2021 (Commercial Original Suit) on the file of the learned Principal District Judge, Tirunelveli, and the plaintiff is entitled for decree for the amount of Rs.46,75,422/- with interest at the rate of 7.5% from the

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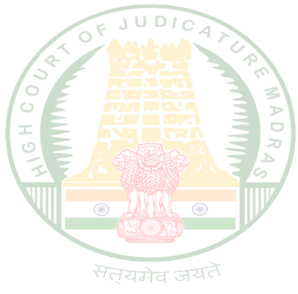

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date of plaint till the date of recovery.

[N.A.V, J.] & [K.K.R.K,J.]

23.06.2026.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
pal

To

1.The Principal District Judge,
Tirunelveli.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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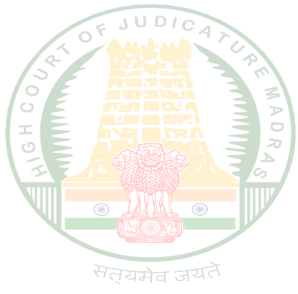

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N.ANAND VENKATESH, J.
and
K.K.RAMAKRISHNAN, J.

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PRE-DELIVERY JUDGMENT made in
Appeal (CAD) (MD).No.2 of 2025

Dated: 23.06.2026

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