IN THE COURT OF DISTRICT JUDGE, NILGIRIS DISTRICT
AT UDHAGAMANDALAM

Present : A. Muraleetharan, M.A., B.L.,
District Judge, Udhagamandalam
Wednesday, the 05th day of August 2026
C.O.S.No. 01/2023
CNR No.TNNS010005422023

Mr.R.Subramaniyan … **Plaintiff**

- Vs -

Mr.S.Sivalingam … **Defendant**

This suit was coming before me for hearing on 23.07.2026 in the presence of Thiru.R.Ravikumar, Counsel for the plaintiff and Thiru.K.Jaichandran, Counsel for the defendant and upon hearing the arguments of both sides and upon perusing the relevant records, this court passes the following:

JUDGMENT

Suit is for directing the defendant to pay a sum of Rs.92,67,735/- with interest thereon at 12% per annum from the institution of the suit till realization of the amount and cost of the suit.

2. The brief averment of the plaint:-

The plaintiff is a building material supplier and the defendant is a registered Government contractor. The plaintiff used to supply building materials on credit for more than 3 years to the defendant. The defendant was due about Rs.1,00,00,000/-

(Rupees One Crore Only) inclusive of G.S.T. for the material supplied by the plaintiff. The plaintiff requested and demanded the amount due by the defendant on several occasions but the defendant was dodging on some pretext or other.

Some well-wishers of the plaintiff and defendant mediated and arrived at a settlement in which the plaintiff magnanimously accepted for a settlement amount of Rs.58,00,000/-. The defendant undertook to repay by committing and writing on 09.05.2022 at Udhagamandalam to repay the said amount within 48 days. The G.S.T. for the materials supplied by the plaintiff to the defendant was worked out at Rs.31,97,801/- as such the total amount due by the defendant towards the plaintiff is Rs.89,97,801/-.

As per the written undertaking the defendant had to pay Rs.40,00,000/- within 10 days from 09.05.2022 of which also the defendant failed to pay. When the plaintiff requested the defendant to repay the amount due after 45 days of expiry of the commitment the defendant refused to settle the issue and on the other hand the defendant was criminally intimidating the plaintiff.

The plaintiff had issued a legal notice claiming the said amount of Rs.89,97,801/- to the defendant on 22.06.2022 and the defendant received the notice. Till date he had not made any attempts either to settle or reply to the legal notice as such it is deemed that the defendant had submitted to the plaintiff’s claim.

It is therefore prayed to pass judgement and decree directing the defendant to pay the above said amount of Rs.92,67,735/- with interest at the rate of 12% p.a. from the institution of the suit till realization of the amount and pay cost of the suit.

3. <u>The brief averment of the Written Statement:</u>

The plaintiff is running a sole proprietary concern in the name and style of M/s.Sathguru Babaji Traders and M/s.Sathguru Babaji Earth Movers. The defendant had business transactions of purchase of building materials and Earth mover service from the said M/s.Sathguru Babaji Traders, M/s.Sathguru Babji Earth Movers respectively and the defendant had no personal transaction with the plaintiff. The suit has been framed as if the defendant had personal transaction with the plaintiff and therefore the suit as framed is not maintainable.

It is true that the defendant is a Government Contractor. It is not correct to state that the plaintiff used to supply building materials on credit for more than 3 years to the defendant. The defendant had business transaction with the above M/s.Sathguru Babaji Traders and M/s.Sathguru Babaji Earth Movers from the year 2018. It is false to state that the defendant was due about Rs.1,00,00,000/- inclusive of G.S.T. to the plaintiff. The alleged settlement amount of Rs.58,00,000/- is also false. The alleged undertaking dated 09.05.2022 has been executed between the plaintiff and the defendant for some other purpose and not for the purpose mentioned in the plaint. The agreement executed between the plaintiff and the defendant has no connection with either the alleged due by the defendant or the alleged settlement amount. The G.S.T. amount of Rs.31,97,801/- mentioned in the plaint is not true. In fact the G.S.T amount of Rs.28,73,342/- has already been paid by the defendant for the materials purchased from M/s.Sathguru Babaji Traders and M/s.Sathguru Babaji Earth Movers. The alleged total amount due by the defendant to the plaintiff is also false.

The allegations that the defendant has failed to pay Rs.40,00,000/- within ten days from 09.05.2022 is false. The defendant never tried to make any unlawful gain and never attempted to cheat the plaintiff or any other person. The allegations to the above said effect is amounting defaming the defendant and defendant shall take separate proceedings in this regard against the plaintiff. The alleged request made by the plaintiff is also false.

It is true that the plaintiff has issued a legal notice and the defendant has received the same. In the legal notice the plaintiff has claimed a sum of Rs.89,97,801/- stated to be the amount due by the defendant to a firm run by the plaintiff in the name and style of “R.G. & CO.,” at Mettupalayam. The defendant has not issued any reply to the above legal notice since he had no transaction with the said “R.G. & CO”., and he was not under any obligation to issue any reply.

The memo of calculation filed by the plaintiff is not true. The defendant is no were connected with the alleged business loss and the alleged exorbitant interest paid by the plaintiff mentioned in the plant. The defendant had business transaction of purchasing building materials from M/s.Sathguru Babji Traders and Earth movers service from M/s.Sathguru Babaji Earth Movers run by the plaintiff right from the year 2018. The defendant used to pay the value of the materials supplied by them on delivery of the materials at Nilgiris. The defendant used to pay the said amounts by way of bank transfer as well as cash. Cash payments were made at the request of the plaintiff and the plaintiff has adjusted the cash payments towards the balance amount inclusive of GST. As per the business transactions from 2018 to 2021 the defendant had transaction to the tune of Rs.3,30,76,358/- and not as detailed in the Auditor Report received and filed on behalf of M/s.Sathguru Babaji Traders and the same is fabricated. The report of the Auditor report pertaining to M/s.Sathguru Babji Earth Movers is correct. The defendant has paid the total sum of Rs.3,23,459.70 till the year 2021-2021 for the materials supplied. The defendant has no due towards GST amount.

As stated above after the final payment the defendant was due a sum of Rs.7,30,338/- to the plaintiff for the material and earth mover service supplied to the defendant, apart from the said amount the defendant was due to the plaintiff another sum of Rs.19,14,000/- for the material supplied to third party on behalf of this defendant. There was absolutely no misunderstanding nor any issue with regard to the balance payment for a sum of Rs.26,44,338/-.

The plaintiff had come over to Udhagamandalam on 09.05.2022 and requested the defendant to do him a favour by executing an agreement which was not to be acted upon. The plaintiff has represented that he is intending to take a loan from third parties for payment of some dues and he has requested the defendant to execute an agreement for a sum of Rs.58,00,000/- which includes the balance amount of Rs.26,44,338/- to be paid by the defendant to the plaintiff in respect of the business transaction.

The defendant has agreed to execute the agreement to help the plaintiff since he has been well known to the defendant. The defendant signed the agreement prepared by plaintiff on 09.05.2022. On the date of the agreement two separate agreements were prepared one in the name of the defendant and another one in the name of the plaintiff. At the time of the signing the agreement there was only one witness who had signed as attesting witness. The plaintiff has promised the defendant that he would handover the agreement standing in the name of the defendant after getting the signature of the second witness and the defendant believing the plaintiff has not received the agreement standing in his name. The plaintiff has handed over a photocopy of the agreement standing in his name to the defendant on the date of the agreement and the defendant is in possession of the same. Subsequent to the above execution the defendant has arranged to pay a sum of Rs.15,00,00/-towards his due towards the plaintiff and requested the plaintiff to come over to Udhagamandalam to receive the payments. The plaintiff had come over to Udhagamandalam on

19.05.2022 and on the said day the defendant has paid as sum of Rs.11,00,000/- to the plaintiff by way of cash and Rs.4,00,000/- by cheque. The above said mode of payment was done at the request of the plaintiff. The said sum of Rs.15,00,000/- has been paid towards a part of the actual balance of Rs.26,44,338/- to be paid by the defendant to the plaintiff. The agreement standing in the name of the defendant carries an endorsement for the above payment. The plaintiff has suppressed the above payment as well as the agreement belonging to the defendant and filed the suit with false document. The plaintiff has not carried out the payment endorsement in the agreement belonging to him with ulterior motive of cheating the defendant. Even otherwise the alleged undertaking agreement dated 09.05.2022 would legally amount to a simple money bond. Since it does not carry the required stamp duty it cannot be entertained before this court until the payment of the necessary stamp duty and penalty amounting to about Rs.13,92,000/-.

On 19.05.2022 the plaintiff has promised the defendant that he would give sufficient time to the defendant to pay the balance amount of Rs.11,44,338/-. The plaintiff has further stated the he would raise funds from third parties and cancel the agreement at once he settles the amount raised from the third parties since it has been executed with the good intention of not to be acted upon and it has been executed only for the purpose mentioned above. The defendant is ready any willing to pay the actual balance amount of Rs.11,44,338/-. It is a surprise for the defendant that the plaintiff has not canceled the agreement but filed the frivolous suit to have unlawful gain. The plaintiff has not even handed over the agreement belonging to the defendant which carries the endorsement of payment for Rs.15,00,000/-. In the mediation proceedings the defendant has requested the plaintiff not to proceed further with the frivolous suit but till this day the plaintiff has not responded positively to the defendant request.

Therefore it is prayed to dismiss this suit with exemplary and compensatory cost.

4. Upon the above pleadings, the following issues are framed:

1.	**Whether the written undertaking claimed by the plaintiff executed on 09.05.2022 was intended to be acted upon or for raising loan from the creditors by the plaintiff?**
2.	**Whether the suit as framed by the plaintiff is maintainable in the eye of law?**
3.	**Whether the plaintiff has suppressed the payment of Rs.15,00,000/- by the defendant on 19.05.2022 or not?**
4.	**Whether the plaintiff is entitled for the relief sought for in the plaint?**

On the side of plaintiff, he himself was examined as PW1 and Ex.A1 to A4 were marked. On the side of defendant, he himself was examined as DW1 and one Aravind raj was examined as DW2 and Ex.B1 to Ex.B6 were marked.

Heard both side arguments. Records perused.

5. **Issue No.2:**

The plaintiff filed the suit for recovery of amount said to be due from the defendant for the building materials supplied by him. Of course, the suit has been filed by by the plaintiff in his name and it is not mentioned as the suit is filed in the capacity of proprietor of any of the firms owned by him or for any other firm from which he had supplied the said building materials to the defendant.

The defendant has taken a stand in his written statement itself that the plaintiff is running a sole proprietary concern in the name and style of M/s. Sathguru Babaji Traders and M/s.Sathguru Babaji Earth Movers and the defendant had transactions with the said firms only and he had no personal transactions with the plaintiff and as such the suit framed is not maintainable. The learned counsel for the defendant relied upon the Judgments of

(i) Hon’ble Delhi High Court in the case of **Miraj Marketing Corporation Vs Vishaka Engineering and another** on 23.11.2004 **reported in 115 (2004) DLT 471** and

(ii) Hon’ble Supreme Court in the case of **S.N.Dutt Vs Union of India** on 27.03.1961 reported in **AIR 1961 (SC) 1449** in support of his arguments.

The above argument of the defendant is not acceptable since a proprietor and a proprietorship concern are not different legal entities. The citations relied upon by the defendant side are not relevant to decide the above question since the case concerned with Hon’ble Delhi High Court, it is learnt that in the evidence it is stated as one A.K.Pandey was the sole proprietor of the plaintiff firm, but the suit was instituted in the name of the firm represented through Shri. Amitabh Sharma but who had neither signed the plaint nor he signed the power and as such it was held that the suit was not instituted by a duly authorized person. Likewise in the case concerned with Hon’ble Superme Court, the suit was filed by “Surrendra Nath Dutta, sole proprietor of a business carried on under the name and style of S.N.Dutt & Co”, whereas in the notices under section 80 of CPC were issued by “S.N.Dutt & Co.” and not behalf of the proprietor name and the main point therefore arose is whether the notices in question were in conformity with section 80 of CPC and it is held that the prima facie impression from reading the notices would be that Messers. S.N.Dutt & Co. was some kind of partnership firm an notices were being given in the name of that partnership firm and in that context it was observed that where an individual carries on business in some name and style the notice has to be given by the individual in his own name , for the suit can only be filed in the name and also pointing out other defects it was not accepted.

The proprietorship is a trade name only chosen by the proprietor to conduct his business and he only bears all liability for the business conducted on behalf of the said proprietory concern and a proprietorship concern is not a jurisdict person and there is no prejudice or mistake in suing the owner by name.

This position is reiterated by **Hon'ble Supreme Court** in the Judgment reported in **(i) AIR 2009 Supreme Court 422** in the case **of M/s Shankar Finance and Investments -Vs- State of Andra Pradesh and others and**

(ii) 2025 INSC 1046 in the case of **Dogiparthi Venkata Satish Vs Pilla Durga Prasad also.**

Therefore the objection of the defendant's side with regard to the framing of suit as the plaintiff has filed the suit in his name only instead of not mentioning as proprietor of his concerns from which he had supplied materials to the defendant concerned with this suit is not acceptable.

Accordingly the Issue No.2 is answered.

6. <u>Issue Nos.1 and 3:</u>

The plaintiff's entire claim in connection with the suit is based upon the Ex.A4 – Agreement entered into on 09.05.2022 between him and the defendant. According to the plaintiff, he had been supplying building materials at the relevant time to the defendant and in this connection, the defendant was due about Rs.1 crore inclusive of GST and upon the intervention of some well wishers on both sides, they arrived to a settlement whereby it was agreed to pay Rs.58 Lakhs excluding GST and they entered into Ex.A4 – Agreement on 09.05.2022 and the defendant undertook to pay the said amount within 48 days and the GST for the materials supplied to the defendant was worked out at Rs.31,97,801/- and accordingly the defendant was liable to pay a total sum of Rs.89,97,801/- and out of which he undertook to pay Rs.40 Lakhs within 10 days from 09.05.2022, but the defendant failed to pay the said amount.

The defendant did not dispute the execution of Ex.A4 – Agreement, but according to him it was executed upon the request of the plaintiff since the plaintiff represented him that he intends to take loan from third parties for payment of some dues and in fact the defendant was liable to pay a sum of Rs.7,30,338/- only to the plaintiff and apart from that the defendant was due to the plaintiff for another sum of Rs.19,14,000/- for the material supplied to third party on behalf of the defendant and as such a total sum of Rs.26,44,338/- alone has to be paid by the defendant to the plaintiff and in such circumstance only the plaintiff requested him to execute an agreement for a sum of Rs.58 Lakhs which includes the actual balance amount of Rs.26,44,338/- and the defendant had also signed in the Ex.A4.

It is the further case of the defendant that the Ex.A4 was prepared by the Advocate DW2 Aravind Raj in two copies and at the time of signing the agreement only one witness had signed as attesting witness and the plaintiff assured to handover the agreement copy of the defendant after getting signature from the 2nd witness and the plaintiff handed over a photo copy of the said agreement only to the defendant which is marked as Ex.B1 with the signature of one witness and subsequently the defendant had paid a sum of Rs.15 Lakhs to the plaintiff on 19.05.2022 towards the said liability and the DW2 has clearly deposed about the circumstances in which the Ex.A4 had come into existence and that it was signed by one witness only at the time of preparing the Ex.A4 as two copies.

7. It is no doubt, when a person claims a sum from the other party based on some business transaction, the said person has to produce necessary documents in this connection. In this case the plaintiff has not produced any invoices in connection with the business transactions concerned with this case and he produced the Ex.A3 – A certificate of his auditor stating that M/s.Sathguru Babaji Earth Movers has sold building materials to the defendant herein for the years 2018 – 2019 and 2019 – 2020 for the invoice value at Rs.4,00,050/- and Rs.11,11,814/- for the respective periods and the Ex.A4 agreement. As already stated the defendant did not dispute the execution of Ex.A4 and as such it is for him only to prove the circumstances under which Ex.A4 had come into existence.

It is true, the scribe of the Ex.A4 namely Advocate Aravind Raj deposed in favour of the defendant by stating that the plaintiff and the defendant approached him with regard to a settlement and the plaintiff informed that he was in necessity to show his creditors about the amount liable to be paid to him by the defendant and it is further informed by both parties to DW2 that it is a sham and nominal agreement and it is not intended to enforce and the plaintiff informed him that the defendant was liable to pay a sum between Rs.25 Lakhs to Rs.26 Lakhs, but it has to be mentioned in the agreement a little bit higher than the said amount and the defendant had also informed the DW2 that he had no objection to prepare the agreement in such terms and accordingly in the separate stamp papers purchased in the name of plaintiff and defendant respectively, he had prepared the agreement and one person only signed as a witness in the two copies and he had handed over both the agreements to the plaintiff and he did not know whether the plaintiff had handed over one of the said agreement to the defendant.

8. The plaintiff deposed in the cross examination that the Ex.A4 – Agreement was executed in the office of DW2 in the presence of two witnesses. It is also true that the plaintiff has stated in the para 10 of the plaint that the plaintiff had incurred heavy loss in the business because of the above due and he had to pay exorbitant interest towards the bankers and private moneylenders. But it cannot be held as sufficient to accept the circumstance relied upon by the defendant under which the Ex.A4 had come into existence to say that it was executed upon the request of the plaintiff only to show the said agreement to his creditors as a security for the purpose of raising loan. The defendant admitted during the cross examination that he had stopped his business from Sathguru Babaji Traders in the year of 2021 itself and before that he had transactions with the said Traders for several crores and he denied that the plaintiff had stopped to supply building materials since the defendant did not repay the amount due by him. The said Ex.A4 – Agreement was executed on 09.05.2022. In such circumstance, it is unbelievable that the plaintiff had requested him to execute an agreement as if the defendant was liable to pay a sum of Rs.50 Lakhs against the actual balance of Rs.26,44,338/- i.e., almost double the actual liability.

The defendant himself admitted in the written statement that he was liable to pay a sum of Rs.26,44,338/- in total to the plaintiff before the execution of Ex.A4 – Agreement. It is not specifically stated by him about the period for which the said outstanding came into existence. There is no whisper in the Ex.A4 – Agreement about the explanation offered by the defendant under which circumstance it came into existence. In the Ex.A4 it is clearly mentioned that accounts of both of them were verified and due to the intervention of the well wishers, both parties came to the conclusion that the defendant has to pay a sum of Rs.58 Lakhs towards the materials supplied to him by the plaintiff and it was further agreed that they have to sort out the amount payable by the defendant to the plaintiff towards GST with consultation of auditors which was already paid by the plaintiff and the agreed amount of GST paid by the plaintiff shall be payable by the defendant and they mutually agreed that a sum of Rs.1,43,000/- paid to R.G and Co by the defendant out of the money received from the plaintiff shall be calculated during the GST amount and both the parties agreed that the defendant shall pay the said sum of Rs.58 Lakhs to the plaintiff within 45 days from the date of execution of Ex.A4 and also to pay the GST amount to the plaintiff by the defendant within 75 days from the date of said agreement and they further agreed that a part payment of Rs.40 Lakhs will be paid within 10 days from the said date.

On perusal of the above recitals in the Ex.A4 – Agreement, this Court is unable to accept the contention of the defendant about the circumstances under which the Ex.A4 was come into existence. The evidence of DW2 namely the scribe of Ex.A4 will no way helpful to the defendant as the scribe is not competent to offer an explanation against the terms of Ex.A4 -Agreement prepared by him and no amount of oral evidence against the recitals of Ex.A4 by the scribe cannot be given with any importance.

9. The learned Counsel for the defendant further argued that even assuming the Ex.A4 as a genuine one for an argument sake, it is a "bond" within the meaning of Indian Stamp Act, but it is insufficiently stamped and unless the requisite stamp duty and penalty are paid, the document inadmissible in evidence. As pointed out by the learned Counsel for the plaintiff, the defendant side raised the above plea by filing a separate petition under Order 13 Rule 3, 8 and Section 151 of CPC r/w Section 33, 35 of Indian Stamp Act to impound the Ex.A4 for insufficient stamp duty and penalty as per Article 15 of Schedule I, Section 33 and 35 of Indian Stamp Act and this Court after hearing both sides came to a conclusion that the Ex.A4 is not creating any new liability and it is only dealing with preexisting liability and the undertaking is only to meet out the said liability which cannot be encompassed as a "bond" and as such it cannot be confined under section 2(5)(b) of Stamp Act so as to direct payment of stamp duty and finally dismissed the said petition. The defendant side preferred Revision before Hon'ble High Court in CRP No.4472 of 2024 and as per order dated

08.11.2024 the said revision was dismissed by confirming the order of this Court.

Therefore the defendant is not entitled to agitate the very same ground once again namely with regard to the admissibility of Ex.A4 for want of stamp duty and penalty.

10. The defendant side stated in the written statement itself that the defendant had paid a sum of Rs.15 Lakhs to the plaintiff subsequent to the execution of Ex.A4 and out of the said amount he paid a sum of Rs.11 Lakhs by way of cash and Rs.4 Lakhs by way of cheque and an endorsement was made in the copy of Ex.A4 Agreement prepared in the stamp paper standing in the name of defendant and it was suppressed by the plaintiff and the defendant has proof to show the above payment, but the plaintiff has not carried out the payment endorsement in his agreement copy. There is no such endorsement not only in the Ex.A4 – the original of Agreement entered into between the parties, but also in the Ex.B1 – Photocopy of said Agreement. The defendant has not produced any proof also to that effect though he claimed in the written statement that he is having proof for the same.

The defendant has produced the photocopy of Ex.A4 - Agreement as Ex.B1 and according to him though it was prepared in two stamp papers as two separate copies, one in the name of the plaintiff and one in the name of defendant, the plaintiff received the copy of the defendant also assuring to return it after getting a signature from one more witness and the plaintiff handed over a photocopy of the agreement alone standing in the name of plaintiff to the defendant. But the defendant failed to show that the agreement standing in the name of defendant carries with an endorsement for the above payment. It is not explained by him how the said endorsement was made in the copy said to be prepared in the name of defendant alone since it was already said to be retained by the plaintiff and why he did not insist to return the copy stands in his name even at the time of alleged endorsement for the subsequent payment of Rs.15 Lakhs said to be made by the defendant to the plaintiff and also why he did not insist to make the relevant endorsement in the copy of agreement said to be prepared in the plaintiff name. Merely because the plaintiff deposed during the cross examination that the agreement was prepared in two copies, it will not lead to the presumption that the another copy was retained by the plaintiff. The explanations and reasons offered by the defendant in this regard is unbelievable and not proved even through the DW2. The plaintiff denied that he did not give any copy of the Ex.A4 to the defendant. The PW1 deposed during the cross examination that the cheque for Rs.4 Lakhs was given by the defendant even before the Ex.A4 – Agreement in connection with the materials supplied to the defendant and he denied the payment of Rs.11 Lakhs in cash and that an endorsement was made in the agreement on 19.05.2022 for the total payment of Rs.15 Lakhs.

The defendant has produced the Ex.B4 – Bank statement in support of his contention that a sum of Rs.4 Lakhs was transferred to Sathguru Babaji Traders on 20.05.2022. It is true the plaintiff has not disputed that he is the proprietor of Sathguru Babaji Traders and he did not deny the entries found in the Ex.B4 - Bank statement. During the cross examination of DW1, it is confronted by the plaintiff side that the Ex.B4 – Bank statement is not approved by Auditor. The Auditor has nothing to say about the transfer of fund from the defendant account to the plaintiff's proprietary concern. The plaintiff has not denied the fund transfer of Rs.4 Lakhs from the defendant account on 20.05.2022 which was made subsequent to the Ex.A4 only. Though this Court accepts to the extend that a sum of Rs.4 Lakhs was transferred to the plaintiff concern from the defendant's bank account, it is not accepted that the defendant had proved from the entries made on 19.05.2022 in the Ex.B3 – Statement of his bank account that he had withdrawn a total sum of Rs.11 Lakhs that it was paid to the plaintiff only for the reasons stated above. Merely that the defendant has produced the Bank statement to show that a sum of Rs.11 Lakhs was withdrawn by him from his account on 19.05.2022, it will not lead to the presumption that it was paid to the plaintiff only.

11. The defendant side further contended that in the Ex.A1 – Notice dated 22.06.2022, the plaintiff claimed amount from the defendant as if the defendant was liable to pay amounts due to R.G & Co and infact the defendant had no dealings what so ever with the said R.G & Co. In the Ex.A1- Notice it is stated that the defendant was due about Rs.1 crore including the GST for the material supplied to him by the plaintiff and in the mediation effected by the well wishers they arrived for a settlement amount of Rs.58 Lakhs excluding GST and the defendant undertook in writing to repay the same within 45 days from 09.05.2022 and that the plaintiff is running a firm in the name and style R.G & Co at Mettupalayam and the GST for the material supplied by the plaintiff to the defendant works out to Rs.31,97,801/- and accordingly the defendant is totally liable to pay a sum of Rs.89,97,801/-. The defendant in his written statement para 7 stated that he had paid the GST amount of Rs.28,73,342/- already for the materials purchased from M/s.Sathguru Babaji Traders and M/s.Sathguru Babaji Earth Movers. It is reiterated by him in the para 7 of the proof affidavit also. But it is not proved by him and even no details furnished with regard to the payment of Rs.28,73,342/- towards GST by the defendant. It is true in the Ex.A4 it is not arrived about the exact amount to be paid by the defendant towards GST and it was decided in the Ex.A4 that it must be sort out mutually as per the auditors calculation. Any how the defendant has taken a stand that he had paid a sum of Rs.28,73,342/- towards GST. But having admitted his liability and taken a stand that he had paid the said amount towards GST, the burden is upon him to prove that he has no due towards GST, but he has not proved them and accordingly it is held the claim of the plaintiff towards GST by working it out at Rs.31,97,801/- is proved by the plaintiff.

12. This Court has passed an interim judgment directing the defendant to pay the admitted claim amount to the extent of Rs.11,44,338/- and the said amount is also paid by the defendant to the plaintiff by way of a cheque dated 05.09.2023. This Court has accepted that the defendant paid a sum of Rs.4 Lakhs to the plaintiff on

20.05.2022. In the above circumstances and for the reasons stated above it is held that the plaintiff is entitled to the suit claim after deducting the subsequent payment of Rs.4 Lakhs plus Rs.11,44,338/- i.e., in total Rs.15,44,338/-.

Accordingly it is held that the Ex.A4 – Written undertaking dated 09.05.2022 claimed by the plaintiff was intended to be acted upon only and not as claimed by the defendant as if it was executed for raising loan from the creditors by the plaintiff and it is further held that the defendant proved to an extent that he had made a payment of Rs.4 Lakhs to the plaintiff on 20.05.2022 and not as contended by him that he had made a payment of Rs.15 Lakhs to the plaintiff on 19.05.2022.

Accordingly the Issue Nos.1 and 3 are answered.

13. Issue No.4:

In view of decision taken by this Court for Issue Nos.1 to 3 it is held that the plaintiff is entitled to the suit claim less the amount of Rs.4 Lakhs paid as on 19.05.2022 and less a further sum of Rs.11,44,338/- paid as on 05.09.2023 with subsequent interest at 9% from the date of suit along with cost of the suit.

Accordingly the Issue No.4 is answered.

In the result, suit is decreed with cost by directing the defendant to pay a sum of Rs.77,23,397/- (after deducting the subsequent payments in total Rs.15,44,338/- from the suit claim of Rs.92,67,735/-) with subsequent interest at 9% from the date of suit till the date of realization.

Dictated to stenographer and directly typed by her in the computer, corrected and pronounced by me in open court this 05th day of August 2026.

MURALEETHARAN A

Digitally signed by MURALEETHARAN A
Date: 2026.08.05 17:49:06 +0530

District Judge,
Udhagamandalam.

Annexure:

i) Witness examined on the side of Plaintiff:

PW1 Mr. R. Subramaniyan (Plaintiff)

ii) Exhibits Marked on the side of Plaintiff:

Exhibits	Date	Particulars	Nature
Ex.A1	22.06.2022	Legal Notice issued by the plaintiff to the defendant	Office copy
Ex.A2	27.06.2022	Acknowledgment card	Original
Ex.A3	***	Report issued by the Auditor	Photo Copy
Ex.A4	09.05.2022	Agreement entered into between the plaintiff and the defendant	Original

iii) Witness examined on the side of Defendant :

DW1	Mr.S. Sivalingam (Defendant)
DW2	Mr.A.Aravindraj

iv) Exhibits Marked on the side of Defendant :

Exhibits	Date	Particulars	Nature
Ex.B1	09.05.2022	Agreement entered into between the plaintiff and the defendant	Photo Copy
Ex.B2	08.07.2023	Report issued by the Auditor	Photo Copy
Ex.B3	17.06.2018 to 01.04.2022	Statement of business transactions of the Defendant with M/s. Sathguru Babaji Traders.	Printout Copy
Ex.B4	01.01.2022 to 31.12.2022	Bank Statement of the Defendant	Printout Copy
Ex.B5	01.09.2023	Legal notice issued by the defendant to M/s.Sathguru Babaji Traders, Proprietor R.Subramaniyan.	Office Copy
Ex.B6	****	Postal Acknowledgment Card	Original

MURALEETHARAN A

Digitally signed by MURALEETHARAN A
Date: 2026.08.05 17:49:21 +0530

District Judge,
Udhagamandalam.

District Court,
Udhagamandalam
Fair/Draft Judgment in
C.O.S.No.01/2023
Dated: 05.08.2026