

Application No.1200 of 2016**RAJIV SHAKDHER,J.**

1. This application is filed under Section 9 of the Arbitration and Conciliation Act 1996 seeking a direction qua the respondent to furnish security for a sum of Rs.2,84,371/-, failing which, to order attachment of the property morefully described in the judges summons.

2. In this application, notice was issued to the respondent, despite which, the respondent has not entered appearance. Furthermore, by order dated 15.04.2016, the respondent was directed to furnish security within a period of three weeks.

2.1. This Court directed the Registry to communicate the said order, i.e. order dated 15.04.2016, to the respondent. That apart, the applicant was also permitted to communicate the said order privately.

2.2. The affidavit of service filed indicates that respondent has 'refused' to accept notice.

2.3 Accordingly, in my view, the respondent stands served.

3. Learned counsel for the applicant prays for attachment of the immovable property described in the schedule appended to the judges summons.

4. It may be noted that it is a case of the applicant that the respondent has availed loan for a sum of Rs.2,71,277/- under the Loan-cum-Hypothecation Agreement dated 22.10.2009, qua the vehicle described as Tata Ace Mini bearing registration No.TN-72-AY-2160. The said amount was to be paid in 47 equated monthly instalments. The first instalment was to commence from 01.12.2009, while the last instalment was payable on 01.10.2013. The applicant submits that under the aforementioned Loan-cum-Hypothecation Agreement, the respondent has undertaken to repay the total loan amount equivalent to a sum of Rs.3,86,152/-.

5. Learned counsel for the applicant says that the respondent has not adhered to the obligations undertaken under the aforementioned loan agreement. It is the case of the applicant that the respondent is liable to pay a total sum of Rs.2,84,371/- as on 25.02.2016 together with interest till date of payment.

6. At this juncture, I am informed by the learned counsel for the applicant that the arbitration proceedings have been initiated and the same are pending adjudication.

7. It is clear that the respondent is moving towards a situation where the award passed shall become a paper decree, if and when

obtained. In this circumstance, there shall be an order of attachment qua the property described in the judges summons to the extent of the claimed amount, i.e., Rs.2,84,371/- For the sake of convenience, the particulars of the said property is noted hereunder below:

SCHEDULE OF PROPERTY

Property situated in Natham Survey No.298/22 measuring an extent of 1637.1 Sq.ft. equivalent to 152.09 Sq.mt. of land together with building in Door No.6/330 in Thevanallur Village, Tirunelveli District, bounded on the

North by	: Main Road
South by	: Muthukrishna Devar's House
East by	: Krishna Devar's Land and Common Wall
West by	: Main Road

and having a linear measurement as on site of

East to West on the Northern side	:36 ft
East to West on the Southern side	:32.75 ft
South to North on the Eastern side	: 46 ft
South to North on the Western side	: 49.25 ft

and situate within the Sub Registration District of Kallakadu and Registration District of Tirunelveli. The Estimated Value of the properties is about Rs.5,00,000/-.

8. Since arbitration proceedings are pending, the respondent is given liberty to move learned Arbitrator to vacate/modify the order of attachment passed by this Court. Needless to state that the learned Arbitrator will pass appropriate orders, if such an application is filed by

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the respondent. The learned Arbitrator will proceed herein, in the matter, after giving notice to the respondent, in case, such exercise have not already been undertaken.

9.This application is disposed of in the aforesaid terms.

20.06.2016

ssd

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