

A.No.2702 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.9,68,545.10p., failing which, to order attachment of the immovable property morefully described in the schedule appended to the judges summons.

2. The record shows that the respondent has been served. To be noted, on 30.09.2016, the respondent was represented by a counsel. Accordingly, the name of the counsel for the respondent is shown in the cause list, today. However, there is no appearance on behalf of the respondent.

2.1. Furthermore, no reply has been filed on behalf of the respondent.

3. To be noted, vide order dated 29.07.2016, the respondent was directed to furnish the security in the sum of Rs.9,18,525.01p.

3.1. This Court, vide order dated 21.07.2016, directed the Registry to communicate the said order, i.e., order dated 29.07.2016, to the respondent. That apart, the applicant was also permitted to communicate the said order privately.

3.2. I am informed by the Registry that the said order, i.e., order dated 29.07.2016, has been communicated to the

respondent.

4. On merits, the averments made by the applicant in the accompanying affidavit filed along with the application are as follows : The respondent has approached the applicant for loan qua purchase of a vehicle described as : LPT 1109 Turbo Truck bearing Chassis No.MAT457402B7B56112 fitted with Engine No.497TC92PYY871221 registered as TN-72-AL-8912. It is stated that the respondent was given loan facility amounting to Rs.9,82,000/- under the Loan-cum-Hypothecation Agreement, dated 10.04.2012. The loan amount was to be paid in 42 Equated Monthly Instalments (EMIs). The first instalment was payable on 07.05.2012, while the last instalment was payable on 07.09.2015.

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 subject vehicle was repossessed and sold.

6. Learned counsel for the applicant further states that arbitration proceeding has been initiated and, consequent thereto, an award has been passed in the matter concerning the parties. According to the applicant, as on 13.04.2016, the respondent is liable to pay a total sum of Rs.9,68,545.10p.

7. It is clear that the respondent is moving towards a situation where the award passed shall become a paper decree. In this circumstance, there shall be an order of attachment qua the property described in the schedule appended to the Judges Summons to the extent of the claimed amount, i.e., Rs.9,68,545.10p. For the sake of convenience, the particulars of the said property are noted hereunder :

"SCHEDULE OF PROPERTY

Item No.1

All part and parcel of land with building admeasuring 586.5 sq.ft. In T.S.Ward No.7, Door No.22A, Vettaikarar Street alias Bagvat Singh Street, Tirunelveli Town,
bounded by
North by : T.S.No.1985, Sankaralingam Sovai Common war house, T.S.No.1991, Suppan Pandithar Commonwar house.
South by : T.S.No.1989, Partition and pathway
East by : T.S.No.1985 Sankaralingam Sevai commonwar house, T.S.No.1988 partition K.Muthusamy Servai Commonwar house.
West by : T.S.No.1989 partition of Shanmugathammal house property.

Item No.2

All part and parcel of land with building admeasuring 67.5 sq.ft. In T.S.Ward No.7, Vettaikarar Street alias Bagvat Singh Street, Tirunelveli Town,
bounded by
North by : T.S.No.1989 partition of house property
South by : T.S.No.1989 RA Madakkannu property
East by : T.S.No.1988 common pathway.
West by : T.S.No.1989 partition of Shanmugathammal house property.

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Item No.3

All part and parcel of land with building admeasuring 25 sq.ft. in T.S.Ward No.7, Vettaikarar Street alias Bagvat Singh Street, Tirunelveli Town,
bounded by

North by : T.S.No.1988 partition of R.Isakki Servai property

South by : T.S.No.1988 Partition of R.Isakki Servai property

East by : T.S.No.1987 purambokku Sudalaimada Swami temple.

West by : T.S.No.1988 partition of R.Isakki Servai property."

8. Since the award has already been passed, the parties are given liberty to take necessary steps hereafter, albeit, in accordance with law, as may be deemed fit.

9. Accordingly, this application is disposed of in the aforesaid terms.

17.11.2016

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