

A.Nos.3240 and 3241 of 2015

RAJIV SHAKDHER, J.

A.No.3240 of 2015

1. It was made clear by me, vide order dated 15.06.2016, that the captioned application need not be shown in the cause list.

1.1. The reason for the same was that the said application had been closed by my predecessor vide order dated 24.02.2016.

1.2. Therefore, while the Registry has correctly not shown the captioned application in the cause list, the learned Master vide proceedings held on 29.08.2016 and 06.09.2016, has placed the application before the Court.

2. Accordingly, list the captioned application before the learned Master, who will formally close the proceedings before him, in the light of the aforementioned orders.

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3. This application is filed under Section 9 of the Arbitration and Conciliation Act, 1996, seeking a direction qua the respondents to furnish security in the sum of Rs.13,48,800/-, failing which, attach the immovable property of respondent No.2, which is morefully described in the schedule-B, until the disposal of the arbitration proceedings.

4. An Affidavit of Service has been filed by the learned counsel for the applicant, which is indicative of the fact that service on the respondents has been effected.

4.1. To be noted, by order dated 24.02.2016, the respondents were directed to furnish security within a period of four weeks.

4.2. This Court directed the Registry to communicate the said order, i.e. order dated 24.02.2016, to the respondents. That apart, the applicant was also permitted to communicate the said order privately.

4.2. I am informed by the Registry that the said order, i.e., order dated 24.02.2016, has been communicated to the respondents. Likewise, learned counsel for the applicant has filed an Affidavit of Service. Despite service, there is no appearance on behalf of the respondents.

5. Learned counsel for the applicant prays for the relief.

6. On merits, the applicant avers as follows : Respondent No.1 has approached the applicant for loan qua purchase of a vehicle described as : Toyota Innova Car bearing Engine No.2KD6801109 and Chassis No.MBJ11JV4007277586. It is stated that respondent No.1 was given loan facility amounting to Rs.10,00,000/- under the Loan-cum-Hypothecation Agreement dated 12.07.2011. The said amount was to be paid in 36 Equated Monthly Instalments (EMIs). Respondent No.2 is the Guarantor to the said loan transaction.

7. Learned counsel for the applicant says that the respondents

have not adhered to the obligations undertaken under the aforementioned loan agreement. It is the case of the applicant that as on 15.04.2015, the respondents are liable to pay a total sum of Rs.13,48,800/-.

8. Learned counsel for the applicant further states that arbitration proceedings have been initiated, and, the same are pending adjudication.

9. It is clear that the respondents are moving towards a situation where the award 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 schedule B appended to the Judges Summons to the extent of the claimed amount, i.e., Rs.13,48,800/-. For the sake of convenience, the particulars of the said property are noted hereunder :

SCHEDULE-B

All part and parcel of the land and building situated at Plot No.9, Venkateshpuram Colony Extension, Ayanavaram, Chennai-600 023, comprised Survey No.20/2A, 22 and 23, Plot No.30 and 33, Now T.S.No.20, Block No.33 on the file of SRO, Annanagar, Central Chennai registration District, measurements are given below:

North by : 26 Feet ;

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South by : 26 Feet ;

East by : 39 Feet ;

West by : 29 Feet;

Totally 1273 ¼ Sq.Ft. Boundaries are given below :

North by : Plot No.8 ;

South by : Plot No.10;

East by : Mental Hospital ;

West by : Property belongs to Shanthi,
Jayalakshmi and S.Bharani

10. Since the arbitration proceeding has been initiated and the same is pending, the parties will have liberty to take necessary steps hereafter, albeit, in accordance with law.

11. Accordingly, the captioned application is disposed of in the aforesaid terms.

22.11.2016

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