

Application No.4902 of 2015**RAJIV SHAKDHER,J.**

1. This application is filed under Section 9 of the Arbitration and Conciliation Act 1996 seeking a direction qua the respondents to furnish security for a sum of Rs.79,03,127/-, failing which, to order attachment of the property morefully described in the judges summons.

2. In this application, notice was issued to the respondents, despite which, the respondents have not entered appearance. Furthermore, by order dated 27.07.2015, the respondents were directed to furnish security within a period of two weeks.

2.1. This Court directed the Registry to communicate the said order, i.e. order dated 27.07.2015, to the respondents. That apart, the applicant was also permitted to communicate the said order privately.

2.2. I am informed by the Registry that the service of the said order, i.e. order dated 27.07.2015, has been effected on the respondents. Likewise, the applicant has filed affidavit of service. Despite service, the respondents have chosen not to appear.

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 respondents have availed loan for a sum of Rs.75,00,000/- under the Loan-cum-Hypothecation Agreement dated 30.08.2013, qua the purchase of fully furnished house. The said amount was to be paid in 181 monthly installments. The first installment was to commence from 07.09.2013, while the last installment was payable on 07.10.2028. The applicant submits that under the aforementioned Loan-cum-Hypothecation Agreement, the respondents have undertaken to repay the total loan amount.

5. 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 the respondents are liable to pay a total sum of Rs.79,03,127/- as on 16.07.2015.

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

7. 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 judges summons to the extent of the claimed amount, i.e., Rs.79,03,127/-. For the sake of convenience, the particulars of the said property are noted hereunder below:

SCHEDULE OF PROPERTY

Land and Building, land measuring 4333 Sq.ft. comprised in Old T.S.No.290/2B5C, New T.S.No.290/13C along with common passage measuring, comprised in T.S.No.290/12B, 13A, 6, 289/1B, 2A and 289/3, bearing No.46C, Karukinil Amarnthavel Koil Sanadhi street, Kanchipuram Town, Kanchipuram and the land bounded on the:

North by : Plot belonging to Mr.Velayutham
South by : Plot belonging to Mrs.Poovidhazh Selvi
East by : Drainage
West by : 14 feet common passage

Situated within Sub-Registration District of Kancheepuram Joint II and Registration District of Kancheepuram.

8. Since the arbitration proceedings have been initiated and the pronouncement of the award is pending, the parties are given liberty to take necessary steps hereafter, albeit, in accordance with law.

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

21.06.2016

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RAJIV SHAKDHER, J.

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Application No. 4902 of 2015

21.06.2016