

Application Nos.5046 to 5062 of 2015

RAJIV SHAKDHER, J.

1. These applications are filed under Section 9 of the Arbitration and Conciliation Act 1996 seeking a direction qua the respondents to furnish security for the sums mentioned in the applications, failing which, to order attachment of the properties morefully described in the judges summons.

2. In these applications, service via private mode was effected on the respondents, despite which, the respondents have chosen not to appear before this Court.

3. Mr.S.Suresh, who appears for the applicant, says that respondent No.1/the principal borrower filed a civil suit No.282 of 2015 before the City Civil Court at Ahmedabad and the said Court has reserved orders in an application preferred under Section 8 of the Arbitration and Conciliation Act, 1996 (in short 'the 1996 Act') by the applicant.

3.1. I am told that the judgement in the said application has not been delivered.

3.2. I had recorded this aspect of the matter in the proceedings held on 03.08.2016 and 12.08.2016.

4. Since, judgement has not been delivered in the application

under Section 8 of the 1996 Act, learned counsel for the applicant prays for attachment of the properties adverted to in the captioned applications, save and except in A.Nos.5051 and 5052 of 2015, as the respondents have not complied with the order dated 29.07.2015, passed by this Court directing them to furnish security in the matters.

5. It appears that, thereafter, the respondents have been served once again, which is effectively reflected in the proceeding of the learned Master dated 19.07.2016. Despite service, the respondents have chosen not to enter appearance in this Court.

6. On the merits, I am informed by the learned counsel for the applicant that the properties referred to in the schedule attached to the judges summons, in each of the applications, is identical. Pertinently, the parties involved in the captioned applications are also same. The only difference being, that, separate contracts were executed between the parties qua which, loans were given. Therefore, the details with regard to each of the applications are set out hereinbelow in the form of a table for the sake of convenience :

<i>Sl. No.</i>	<i>Application Nos.</i>	<i>Agreement Date</i>	<i>Due Date</i>	<i>Amount due Rs</i>
1	5046/2015	30.12.2011	31.03.2015	32,25,266.35
2	5047/2015	30.12.2011	06.05.2015	45,01,488.23
3	5048/2015	30.12.2011	31.03.2015	32,21,335.35
4	5049/2015	30.12.2011	06.05.2015	44,95,350.23
5	5050/2015	30.12.2011	06.05.2015	44,95,217.23
6	5053/2015	16.08.2012	06.05.2015	41,17,968.00
7	5054/2015	16.08.2012	06.05.2015	24,75,395.00
8	5055/2015	16.08.2012	06.05.2015	22,54,454.00
9	5056/2015	16.08.2012	06.05.2015	7,51,464.00
10	5057/2015	16.08.2012	06.05.2015	20,14,929.00
11	5058/2015	02.08.2013	31.03.2015	79,66,940.19
12	5059/2015	02.08.2013	31.03.2015	79,66,441.19
13	5060/2015	02.08.2013	06.05.2015	1,11,23,155.07
14	5061/2015	02.08.2013	31.03.2015	79,72,552.19
15	5062/2015	02.08.2013	31.03.2015	79,70,688.19
Total				745,52,644.22

7. Aggregate of the amounts referred in the table above would show that a total sum of Rs.7,45,52,644.22p., is due and payable by respondent No.1. This fact is also, broadly, reflected in my predecessor's order dated 29.07.2015.

8. To be noted, respondents No.2 and 3 are Guarantors to the loan extended by the applicant to respondent No.1.

9. Learned counsel for the applicant further states that arbitration proceeding have been triggered in the captioned matters.

10. Having regard to the fact that the respondents have chosen not to enter appearance in this Court and, given the fact that there is no traverse to the assertions made in the applications, I am inclined to grant the relief of attachment in the captioned applications, save and except in A.Nos.5051 of 2015 and 5052 of 2015. Consequently, A.Nos.5051 of 2015 and 5052 of 2015 are dismissed as not pressed.

10.1. Accordingly, there shall be an order of attachment qua the property described in the schedule appended to the judges summons to the extent of Rs.7,45,52,644.22p., i.e., the claimed amount. For the sake of convenience, the particulars of the said properties are noted hereunder :

"SCHEDULE

Item No.1

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mirzapur, Revenue Survey No.109/p – Plot No.77, known as Kovai Nagar, Measure as 98.00 sq.mt.

North : Plot No.78
 South : Plot No.76
 East : Plot No.61
 West : 7.5 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.2

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mirzapur, Revenue Survey No.109/p – Plot No.78, known as Kovai Nagar, Measure as 98.00 sq.mt.

North : Plot No.79
 South : Plot No.77
 East : Plot No.70
 West : 7.5 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.3

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mirzapur, Revenue Survey No.109/p – Plot No.79, known as Kovai Nagar, Measure as 98.00 sq.mt.

North : Plot No.80
 South : Plot No.78
 East : Plot No.69
 West : 7.5 mtr. Internal Road

Market value of the property approximately valued at

Rs.10,00,000/-

Item No.4

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Bhuj, Revenue Survey No.21/Paiki 2 land measured Hec. Are 4-05-00, convert into NA, known as “Simandhar City A”, Plot No.72, Measures as 120.00 sq.mtr.

North : Plot No.73
 South : Plot No.71
 East : Plot No.63
 West : 9 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.5

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mirzapur, Revenue Survey No.99/1 land measured Acre 3.03 guntha convert into NA, known as “Suncity-B”, 2 nos of plot, Plot No.57 and 58, Measure as 235.65 'X' 281.84 sq.var.

North : Plot No.56
 South : 6 mtr wide road
 East : 6 mtr wide road
 West : Plot No.43 & 44

Market value of the property approximately valued at Rs.10,00,000/-

Item No.6

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Bhuj, Revenue Survey No.21/Paiki 2 land measured Hec. Are 4-05-00, convert into NA, known as “Simandhar City A”, Plot No.73, Measures as 120.00 sq.mtr.

North : Plot No.74
 South : Plot No.72
 East : Plot No.62
 West : 9 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.7

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Bhuj, Revenue Survey No.21/Paiki 2 land measured Hec. Are 4-05-00, convert into NA, known as “Simandhar City A”, Plot No.74, Measures as 120.00 sq.mtr.

North : Plot No.75
 South : Plot No.73
 East : Plot No.61
 West : 9 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.8

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District

Bhuj, Taluka – Bhuj, Mojhe/ Village – Bhuj, Revenue Survey No.199, NA plot NO.11/p., 11(a) plot measured 111.15 sqr. Mtr., village Panchayat House No.11/10, Construction Area Ground Floor : 50.00 sq.mt., First Floor : 40.00 sq.mtr., Total 90.00 sq. mtr., city survey No.1453/p.

North : City Survey No.1452 property
 South : City Survey No.1453/p property
 East : 10 ft. wide Road,
 West : 25 ft. wide Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.9

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mankuva, Revenue Survey No.63/Paiki NA Plot No.30, Measures as 190.12 sq.mtr.

North : Plot No.13 rest of Northern pat
 South : Survey No.61/2
 East : Existing Road
 West : 6 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.10

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District

Bhuj, Taluka – Bhuj, Mojhe/ Village – Mankuva, Revenue Survey No.61/1 Paiki NA Plot No.13/p, (Oiuthern Part), Measures as 236.55 sq.mtr.

North : Plot No.13 rest of Northern pat
 South : Survey No.61/2
 East : Existing Road
 West : 6 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.11

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mankuva, Revenue Survey No.63/Paiki NA Plot No.9, Measures as 190.12 sq.mtr.

North : Plot No.8
 South : Plot No.10
 East : 6 mtr wide road
 West : 6 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.12

All that piece and parcel of residential property at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mankuva, Revenue Survey No.199, NA Plot No.10//Paiki 10(B), measures as 222.96 sq.mtr. Village Panchayat House No.11/10, Construction Area Ground Floor : 100.00 sq.mtr., First Floor : 60.000 sq. mtr., Total 160.00 sq. mtr., Ctiy

Survey No.1453/p.

North : City Survey No.1453/p property
 South : City Survey No.1453/p property
 East : 10 ft. wide road,
 West : 25 ft. wide road.

Market value of the property approximately valued at Rs.10,00,000/-

Item No.13

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mirzapur, Revenue Survey No.66/1 land measured Acre 1-24-44 are, convert into NA, known as “Suncity-C”, 1 nos of plot, Plot No.21, Measure as 120.00 sq. mtr., i.e. 143.52 sq.var.

North : Plot No.20
 South : Plot No.22
 East : 6 mtr wide internal road
 West : Plot No.26

Market value of the property approximately valued at Rs.10,00,000/-

Item No.14

All that piece and parcel of residential at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mankuva, Revenue Survey No.199 in land measured convert into NA, known as “Simandhar City A”, Plot No.10(A), Measures as 222.96 sq.mtr.

North : Plot No.10(B) house of Gopalbhai
 Vishrambhai Varsani,

South : 25 ft. wide road

East : 10 ft. wide road

West : 25 ft. wide road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.15

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mirzapur, Revenue Survey No.34/2 Constructed property, measured as total 316.26 sq. mtr/p 153.38 sq.mtr super built up, and 124,62 carpet area.

North : rest of construction of Flat

South : NA Land of R.S.No.34/1

East : Lalan College Boundary and Open Land

West : Plot No.11

Market value of the property approximately valued at Rs.10,00,000/-

Item No.16

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mankuva, Revenue Survey No.61/p NA, Plot No.16, Measure as 232.78 sq.mtr.

North : Open Land then Bhuj-Nakhtrana Highway

South : Plot No.15

East : existing road

West : 6.00 mtr. Wide internal road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.17

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mirzapur, Revenue Survey No.109/p – Plot No.83, known as Kovai Nagar, Measure as 98.00 sq.mt.

North : Plot No.84

South : Plot No.82

East : Plot No.65

West : 7.50 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.18

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mirzapur, Revenue Survey No.109/p – Plot No.82, known as Kovai Nagar, Measure as 98.00 sq.mt.

North : Plot No.83

South : Plot No.81

East : Plot No.66

West : 7.5 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.19

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District

Bhuj, Taluka – Bhuj, Mojhe/ Village – Mirzapur, Revenue Survey No.109/p – Plot No.81, known as Kovai Nagar, Measure as 98.00 sq.mt.

North : Plot No.81
 South : Plot No.80
 East : Plot No.67
 West : 7.50 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.20

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe / Village – Mirzapur, Revenue Survey No.109/p – Plot No.80, known as Kovai Nagar, Measure as 98.00 sq.mt.

North : Plot No.81
 South : Plot No.79
 East : Plot No.68
 West : 7.50 mtr. Internal Road

Market value of the property approximately valued at Rs.10,00,000/-

Item No.21

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Sukhpar Navavas Sim, Revenue Survey No.229/3/4/ Hec acre 0-80-94 Plot No.83, known as Kovai Nagar, Measure as 98.00 sq.mt.

North : Plot No.9

South : Plot No.11
 East : 6.09 Mtr wide road
 West : Vicheni

Market value of the property approximately valued at Rs.10,00,000/-

Item No.22

All that piece and parcel of Non-Agriculture Land at Registration District Kutch, Sub Registration District Bhuj, Taluka – Bhuj, Mojhe/ Village – Mankuva, Revenue Survey No.63/p – Plot No.36, known as Varsani Nagar, Measure as 98.00 sq.mt.

North : Open land then Bhuj-Nakhtrana Highway
 South : Plot No.15
 East : existing road
 West : 6.00 mtr. Wide internal Road

Market value of the property approximately valued at Rs.10,00,000/-

11. Since, the arbitration proceedings have been initiated and the same are pending, the parties will have liberty to take necessary steps hereafter, albeit, in accordance with law.

12. Accordingly, the captioned applications are disposed of in the aforesaid terms.

08.09.2016

RAJIV SHAKDHER, J.

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A.Nos.5046 to 5062 of 2015

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