

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.11.2016

Coram

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

O.A.No.376 of 2014
O.A.No.599 of 2014,
and A.No.4865 of 2014

O.A.No.376 of 2014 :

Southern Agrifurane Industries Limited,
M.G.M.Group of Companies,
"M.G.M. Centre",
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.
represented by its Director
Mr.M.G.M.Anand

.. Applicant in all the
applications

vs.

1. Yessir Holdings and Investments
Private Limited,
145, Sterling Road,
Chennai-600 034.
represented by its Director
Mr.M.Sivaram
2. Aruna Hotels Limited,
No.145, Sterling Road,
Chennai-600 034.
represented by its Director
Mr.M.Sivaram
3. Punjab National Bank,
Nungambakkam,
Chennai-600 034.
4. Tourism Finance Corporation of India Ltd.,
Continental Chambers, 3rd Floor,
142, M.G.Road,
Chennai-600 034.

5. Kgeyes Residency Pvt. Ltd.,
represented by its Managing Director,
Mr.P.V.Shanmugham,
Shrushtisshal,
New No.10, 2nd Cross Street,
Raja Annamalaipuram,
Chennai-600 028.
6. Mr.P.V.Shanmugham,
Managing Director,
Kgeyes Residency Pvt. Ltd.,
Shrushtisshal,
New No.10, 2nd Cross Street,
Raja Annamalaipuram,
Chennai-600 028.
7. Mr.Srinivasan Venkatasubramanian,
Director, Kgeyes Residency Pvt. Ltd.,
Shrushtisshal,
New No.10, 2nd Cross Street,
Raja Annamalaipuram,
Chennai-600 028.
8. Ms.Saraswathi Sanmugam,
Director, Kgeyes Residency Pvt. Ltd.,
Shrushtisshal,
New No.10, 2nd Cross Street,
Raja Annamalaipuram,
Chennai-600 028.

.. Respondents in all
the applications

Prayer in O.A.No.376 of 2014 : Original Application filed under Order XIV, Rule 8 of the Original Side Rules and Section 9(ii) of the Arbitration and Conciliation Act, 1996, read with Order XXXIX Rules 1 and 4 and 151 of C.P.C. praying to pass an order of interim injunction restraining the respondents from selling, mortgaging/ further mortgaging, leasing, transferring in any manner, creating right or interest in any manner and/or dealing with/entering into agreement to dealing with the schedule mentioned property in any manner, pending finality of the award dated 28.04.2014 passed by Hon'ble Arbitral Tribunal (Hon'ble Mr.Justice K.P.Sivasubramanian (Retd.)).

Prayer in O.A.No.599 of 2014 : Original Application filed under Order XIV, Rule 8 of the Original Side Rules and Section 9 of the Arbitration and Conciliation Act, 1996, read with Order XXXIX Rules 1 and 4 and 151 of C.P.C. praying to pass an order of interim injunction restraining the respondents from demolishing, renovating, reconstructing and / or putting any new construction in the petition schedule property in any manner, pending finality of the award dated 28.04.2014 passed by Hon'ble Arbitral Tribunal (Hon'ble Mr.Justice K.P.Sivasubramanian (Retd.)).

Prayer in A.No.4865 of 2014 : Original Application filed under Order XIV, Rule 8 of the Original Side Rules and Section 9 of the Arbitration and Conciliation Act, 1996, read with Order XXXIX Rules 1 and 4 and 151 of C.P.C. praying to pass an order of attachment before judgment with regard to the schedule mentioned property pending finality of the award dated 28.04.2014 passed by Hon'ble Arbitral Tribunal (Hon'ble Mr.Justice K.P.Sivasubramanian (Retd.)).

* * *

For Applicant : Mr.K.Ashok Kumar

For Respondents : NA for RR 1, 3 and 4

Mr.Jafarulla Khan for
M/s.D.Revathi Karthick for R2

Ms.Uma Maheswari
for M/s.N.Anand Venkatesh
for RR 5 to 8

COMMON ORDER

1. Learned counsel for the applicant says that in view of the stand taken by respondents No.5 to 8 that they entered into a

compromise with respondents No.1 and 2, and therefore, would have nothing to do with the subject property, the applicant would have no difficulty in dropping respondents No.5 to 8 from the array of parties.

2. To be noted, learned counsel for respondents No.5 to 8 has placed on record, a memo of agreement dated 20.02.2014, which has, apparently, been executed between respondent No.2, i.e., Aruna Hotels Limited and respondent No.5, i.e. Kgeyes Residency Private Limited.

3. I am informed that respondents No.6 to 8 are the Directors of respondent No.5.

3.1. Furthermore, learned counsel for respondents 5 to 8, has also placed on record a Memorandum of Compromise (MOC) executed between respondent No.2 and respondent 5 herein. The MOC, which is dated 31.07.2015, also includes, one, Mr.Sivaram, who is the Managing Director of respondent No.2.

3.2. This MOC was filed in OA.No.1024 of 2014, and has consequently received the imprimatur of this Court, vide order of even date, i.e., 31.07.2015.

4. Accordingly, as submitted, Respondents No.5 to 8 are deleted from the array of parties.

5. I am informed by the learned counsel for respondent No.2 that respondent No.1 is a shareholder of respondent No.2 and that, the contesting party would be respondent No.2.

6. To be noted, applicant has filed a petition under Section 34 of the Arbitration and Conciliation Act, 1996 (in short "1996 Act"), against the award dated 28.04.2014. The said petition is numbered as O.P.No.387 of 2014.

6.1. I am informed that the said petition is pending adjudication.

7. Pertinently, on 24.08.2016, I had recorded the statement of counsel for respondent No.2, i.e., Mr.Zafarullah Khan, that no third party interest will be created in the property, (which is morefully described in the schedule appended to O.A.No.376 of 2014), till the next date of hearing.

8. Learned counsel have agreed that the main petition can be heard and pending adjudication, the undertaking given on 24.08.2016 could continue to operate.

8.1. It is ordered accordingly.

9. Consequently, the captioned applications are closed.

RAJIV SHAKDHER, J.

gg

10. The Registry will list O.P.No.387 of 2014 for hearing on 21.12.2016. In the meanwhile, the Registry will requisition the arbitration record.

22.11.2016

gg

O.A.No.376 of 2014
O.A.No.599 of 2014,
and A.No.4865 of 2014

<http://www.judis.nic.in>