

Application No.6343 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.86,578/-, 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 11.03.2016, the respondents were directed to furnish security within a period of four weeks.

2.1. This Court directed the Registry to communicate the said order, i.e. order dated 06.04.2016, to the respondents. That apart, the applicant was also permitted to communicate the said order privately.

2.2. The affidavit of service filed indicates that respondents 1 and 2 have 'refused' to accept notice.

2.3 Accordingly, in my view the respondents stands served.

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 1st respondent is the borrower, while the 2nd respondent is the guarantor. It is a case of the applicant that the 1st respondent has availed loan for a sum of Rs.1,90,000/- under the Loan-cum-Hypothecation Agreement dated 26.06.2012, qua the vehicle described as Mahindra Load King. The said amount was to be paid in 23 Equated Monthly Instalments. The first instalment was to commence from 01.08.2012, while the last instalment was payable on 01.06.2014. The applicant submits that under the aforementioned Loan-cum-Hypothecation Agreement, the respondents have undertaken to repay the total loan amount equivalent to a sum of Rs.44,577/-.

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.86,578/- as on 08.09.2015.

6. At this juncture, I am informed by the learned counsel for the applicant that the 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.86,578/- For the sake of convenience, the particulars of the said property is noted hereunder below:

SCHEDULE OF PROPERTY

Item No.1

2nd respondent undivided share in Land situated in Somasipadi Village, bearing Survey No.333/2 measuring (0.18.5) Acre 0.46 Cent Within the SRO Kilpennathur and registration district of Tiruvannamalai.

The estimated value of the property is Rs.50,000/-.

Item No.2

2nd respondent undivided share in Land situated in Somasipadi Village, bearing Survey No.333/4 measuring (0.02.5) Acre 0.06 Cent

Within the SRO Kilpennathur and registration district of Tiruvannamalai.

The estimated value of the property is Rs.15,000/-.

Item No.3

2nd respondent undivided share in Land situated in Somasipadi Village, bearing Survey No.335/8 measuring (0.78.0) Acre 1.93 Cent Within the SRO Kilpennathur and registration district of Tiruvannamalai.

The estimated value of the property is Rs.2,00,000/-.

Item No.4

2nd respondent undivided share in Land situated in Somasipadi Village, bearing Survey No.357/1 measuring (1.06.0) Acre 2.62 Cent Within the SRO Kilpennathur and registration district of Tiruvannamalai.

Estimated value of the property is Rs.2,80,000/-.

Item No.5

2nd respondent undivided share in Land situated in Somasipadi Village, bearing Survey No.335/1 measuring Hectare 0 – Are 0.50 Within the SRO Kilpennathur and registration district of Tiruvannamalai.

The estimated value of the property is Rs.5,000/-.

Total estimated value of the properties is Rs.5,50,000/-.

8. Since arbitration proceedings are pending, the respondents are given liberty to move learned Arbitrator to vacate/modify the order of attachment passed by this Court. Needless to state that the learned Arbitrator will pass appropriate orders, if such an application is filed by the respondents. The learned Arbitrator will proceed herein, in the matter, after giving notice to the respondents, in case, such exercise have not already been undertaken.

9.This application is closed in the aforesaid terms.

10.06.2016

RAJIV SHAKDHER,J.

ssd

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