

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :28.11.2016

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THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

Application No.4609 of 2016

M/s. Indusind Bank Limited
New No.34, Old No.115-116
G.N.Chetty Road, T.Nagar
Chennai -600 017
Rep.by its Deputy Manager
Mr.A.Murali

.. Applicant

Vs

1. M/s. Sanity Enterprises
By its Proprietor Mr.J.Abdul Faheem
New No.8, Old No.75
Nelson Manikam Road,
Aminjakarai, Chennai – 600 029

2. Mr.J.Abdul Faheem

.. Respondents

Application filed under Order XIV Rule 8 of O.S.Rules read
with Section 9 (ii) (b) of the Arbitration and Conciliation Act, 1996.

For Applicant : Mr. D.Pradeep Kumar

For Respondents : No Appearance

ORDER

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.27,58,545.82 failing which, to order attachment of the property morefully described in the judges summons.

2. Learned counsel for the applicant says that pursuant to the last order dated 07.10.2016, respondents have been served via email and publication.

2.1. Learned counsel says that respondent No.2 is the Proprietor of respondent No.1 concern.

3. It is noticed that despite service, respondents have not entered appearance.

4. Accordingly, there is no traverse to the averments made in the application.

4.1. Furthermore, there is no compliance of the directions contained in the order dated 07.10.2016, which requires the respondent to furnish security for a sum of Rs.27,58,545.82/-.

5. On merits, the applicant avers as follows:

Respondent No.1 has availed loan in the sum of Rs.25,00,000/- under the Business Loan Agreement, dated 28.08.2015. Respondent No.2 is a Co-borrower. The said amount was to be paid in 36 instalments. The first instalment was to commence from 04.10.2015, while the last instalment was payable on 04.9.2018. The applicant submits that under the aforementioned Loan Agreement, the respondents have undertaken to repay the total loan amount of Rs. 25,00,000/-.

6. 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.27,58,545.82/- as on 28.08.2016.

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.27,58,545.82. For the sake of convenience, the particulars of the said property are noted hereunder below:

All that piece and parcel of the property situated at Plot No.50, Ashok Brindavan (Layout approved and sanctioned by MMDA vide approval No.PPD/LO.No.72/1995, dated 1.9.1995) Iyyappanthangal Village, Sriperumbudur Taluk, Kancheepuram District, comprised in Survey No.113 (part) land measuring 259 sq.ft., undivided share of land in 2039 sq.ft. together with Flat measuring 550 sq.ft., Second Floor, Flat No.S-2, building known as Queen's Sri Hari, along with TNEB Service Connection No.274-006-1761 with deposits and property tax assessment Door No.2/50, S-2 Oil Mill Road, Queen's Foundation, with deposits and the land being bounded on the

North by : Plot No.59

South by : 40 Feet Road

East by : Plot No.49

West by : Plot No.51

Having linear measurements

North to South on the Eastern side 58 feet

North to South on the Western side 58 feet 6 inches
East to West on the Northern side 35 feet
East to West on the Southern side 35 feet
Out of which the land measuring 259 sq.ft., undivided
share of land in 2039 sq.ft., is stands in this
measurement.

Within SRO Chennai South Joint I
Estimated value of property Rs.32,00,000/-

8. Since the arbitration proceedings have been initiated and the same are pending, the parties are given liberty to take necessary steps hereafter, albeit, in accordance with law, as may be deemed fit.

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

28.11.2016

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Note to office:

Issue copy by 02.12.2016

RAJIV SHAKDHER, J.
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<http://www.judis.nic.in>