

Application No.7115 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.1,20,749.10p., 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 04.04.2016, respondent No.1 was 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 04.04.2016, to respondent No.1. 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 04.04.2016, has been effected on respondent No.1. Likewise, the applicant has filed affidavit of

service. Despite service, the respondent No.1 has chosen not to appear.

3. Mr.Sampath, learned counsel for the applicant, says the properties, to which, attachment is sought, belong to respondent No.1. He seeks leave to delete respondent No.2 from the array of parties. Leave is granted. Respondent No.2 will stand deleted from the array of parties.

4. Learned counsel prays for attachment of the immovable properties described in the schedule appended to the judges summons.

5. It may be noted that it is the case of the applicant that respondent No.1 has availed loan in the sum of Rs.5,80,000/- under the Loan-cum-Hypothecation Agreement dated 09.04.2012, qua the purchase of the vehicle described as Mahindra Bolero bearing Chassis No.MA1PS2GPKC2C68390, Engine No.GPC4C37693. The said amount was to be paid in 48 Equated Monthly Instalments (EMIs). The first instalment was commencing from 09.04.2012 and last instalment was ending on 10.02.2016. The applicant submits

that under the aforementioned Loan Agreement, respondent No.1 has undertaken to repay the total loan amount of Rs.7,54,000/-.

6. Learned counsel for the applicant says that respondent No.1 has not adhered to the obligations undertaken under the aforementioned loan agreement. It is the case of the applicant that respondent No.1 has paid 14 installments, and committed default from 15th installment. Thus, the subject vehicle was repossessed and sold on 01.02.2014. Respondent No.1 is liable to pay a total sum of Rs.1,20,749.10p.

7. Learned counsel for the applicant further states that arbitration proceeding has been initiated and, consequent thereto, an award, dated 05.02.2016, has been passed in the matter concerning the parties.

8. It is clear that respondent No.1 is moving towards a situation where the award passed shall become a paper decree. 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.1,20,749.10p. For the sake of

convenience, the particulars of the said property is noted hereunder:

SCHEDULE

A) In the Sub Registration District of Kadathur Village, property in Natham S.No.84/1 and S.No.314/9, as per sub division, property bearing D.No.66/34, and 67/34, Mudhal Thakku, bounded North of Kadathur Main Road, East of balan Chetty Raja Veedhi, South of passage leading to Paneerselvam house, West of property of Paneerselvam, property measuring $498 \frac{3}{4}$ th square feet, measuring East to West on both sides 26 /14 feet, North to South on both sides 19 feet, total $498 \frac{3}{4}$ th square feet.

B) Boundaries Second Thakku North of passage leading to Paneerselvam house, East of Balan Chetty Raja Veedhi, West of Paneerselvam property, South of property described as C hereunder, measuring East to West on both sides $28\frac{1}{2}$ feet, North to South $17\frac{1}{2}$ feet, mangalore tiled building bearing D.No.7/7 measuring 400 square feet.

C) Boundaries North of property described as B above, East of Balan Chetty Raja Veedhi, West of Paneerselvam property, South of Paneerselvam Cemented thalam, East to West on both sides 25 feet, North to South on both sides 16 feet, total 400 square feet, Mangalore tiled construction, bearing D.No.40/7.

8. Since the award has already been passed, 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.

10.08.2016

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