

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.11.2016

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The Honourable **Mr.Justice RAJIV SHAKDHER**

A.Nos.5757 of 2016, 4610 of 2015 and 2260 of 2016
in O.P.No.648 of 2016

1. M/s.Brindavan Energy and Infra Pvt. Ltd.,
rep. by its Director Mr.Vaddadi Kameswararao
Unit No.07, Neelkanth Shopping Arcade Chs,
Nr.Vijaya Bank, Plot No.39, Opp. Fine Arts Soc,
RC Marg, Chembur East, Mumbai - 400 071

.. Applicant in A.No.5757 of 2016
& 4610 of 2015
Respondent in A.No.2260 of 2016

2. Mr.Vaddadi Kameswararao
3. Mr.Prashant Venkatrama Vaddadi

.. Applicants in A.No.5757 of 2016
& 4610 of 2015

Vs.

1. M/s.Shriram City Union Finance Limited
No.123, Angappa Naicken Street,
Chennai - 600 001.
and its Administrative Office at
No.221, Royapettah High Road,
Mylapore, Chennai - 600 004
represented by its Authorised Signatory
C.Gracy

.. Respondent in A.No.5757 of 2016
& 4610 of 2015
and Applicant in A.No.2260 of

2016

A.No.5757 of 2016:

Application filed under Order XIV Rule 8 of O.S.Rules, read with Section 148 of C.P.C. to grant extension of time for making payment in application No.4610 of 2016 as per order of Court dated 23.09.2016.

A.No.4610 of 2015:

Application filed under Section 34 of the Arbitration and Conciliation Act read with Order XIV Rule 8 of O.S.Rules to stay of all further proceedings pursuant to the impugned award dated 15.06.2016 in Arbitration Case No.134 of 2015.

A.No.2260 of 2016:

Application filed under Order XIV Rule 8 of O.S.Rules read with Section 9 (a)(b) and (e) of the Arbitration and Conciliation Act, 1996 and Section 136 of CPC, 1908 to direct the respondent to furnish security to the tune of Rs.11,28,170/- or such sum as this Hon'ble Court may direct; within such time that this Hon'ble Court may stipulate and in case of default to do so, order attachment of the property of the respondent more fully described in the schedule to the Judge's summons through the High Court, Mumbai pending disposal of the arbitration proceeding and enforcement of the award.

For Applicants in A.Nos.5757 of 2016
and 4610 of 2015 and for

Respondent in A.No.2260 of 2016: Mr.K.Ramasamy

For Respondent in A.Nos.5757 of 2016
and 4610 of 2015 and for
applicant in A.No.2260 of 2016: Mr.R.Umashankar

COMMON ORDER

A.Nos.5757 of 2016 and 4610 of 2015:

1. Admittedly, the applicants have not complied with the order dated 23.09.2016, whereby, the operation of the impugned award dated 15.6.2016 was stayed and the applicants were directed to deposit a sum of Rs.6,61,550/- with the Registrar General of this Court.

1.1. As a matter of fact, on 08.11.2016, time was extended and the applicants were granted leave to deposit the aforementioned amount.

2. Since, the requisite amount has not been paid, Application No.4610 of 2015 is dismissed. The order dated 23.09.2016, whereby, the operation of the impugned order was stayed, is vacated.

2.1. Consequently, A.No.5757 of 2016 has been rendered

infructuous. No further orders are called for in A.No.5757 of 2016.

A.No.2260 of 2016:

3. To be noted, in the proceedings held on 23.09.2016, while time was granted to the non-applicant, i.e., Brindavan Energy and Infra Pvt. Ltd., to deposit a sum of Rs.6,61,550/-, in the interregnum, a direction was issued that the said entity shall not alienate or create any third party interest in the property adverted to in the schedule appended to the Judges summons.

3.1. However, this direction was issued based on the undertaking given by the counsel for the non-applicant/original petitioner that the non-applicant would deposit a sum of Rs.6,61,550/-.

3.2. As noted above, no deposit has been made by the non-applicant/original petitioner.

4. Mr.R.Umashankar, learned counsel for the applicant/original respondent states that upon arbitration proceeding being initiated, an award has been passed in the matter concerning the parties.

4.1. To be noted, via the impugned award, according to Mr.Umashankar, a sum of Rs.11,28,170/- has been awarded.

5. It is clear that the non-applicant/original petitioner 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.11,28,170/-. For the sake of convenience, the particulars of the said property are noted hereunder :

SCHEDULE OF PROPERTY

All that piece and parcel of office premises bearing No.7 situated on the first floor of Neelkanth Shopping Arcade Premises Co-operative Society Limited at 39, Ramkrishna Chemburkar Marg, Opp.Fine Arts Society, Chembur, Mumbai - 400 071, admeasuring 315 square feet equivalent to 29.28 square meters bearing C.T.S.No.918, 918/1 to 6, Plot survey No.39, Village Chembur, and lying within the Municipal jurisdiction area ward "Mumbai/West".

The property situate within the registration district and the sub-registration district of Bandra.

6. 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.

RAJIV SHAKDHER,J.

7. Accordingly, A.No.2260 of 2016 is disposed of in the aforesaid terms.

O.P.No.648 of 2016:

8. Re-notify on 06.01.2017.

25.11.2016

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**A.Nos.5757 of 2016, 4610 of 2015
& 2260 of 2016 in O.P.No.648 of 2016**

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