

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
IN  
COMMERCIAL DIVISION

ARBITRATION PETITION LOD.NO.1341 OF 2018  
WITH  
ARBITRATION PETITION LOD.NO.1350 OF 2018

|                        |    |             |
|------------------------|----|-------------|
| Santosh Rao            | .. | Petitioner  |
| Versus                 |    |             |
| Manohar Reddy and Anr. | .. | Respondents |

Ms. Savina S. Bangera for petitioners  
None for respondents

CORAM : G.S.KULKARNI, J.

DATE : 6<sup>th</sup> February 2019.

P.C.

These petitions under under section 9 of the Arbitration and Conciliation Act, 1996 (for short ACA) are filed by the petitioners/claimants, praying for protective reliefs after making of the award by the Arbitral Tribunal on 27<sup>th</sup> May 2008 and before the same is enforced in accordance with section 36 of the ACA.

2] The respondents, though served, have failed to appear, which is clear from the order passed by this Court (S.J.Kathawalla, J) dated 1<sup>st</sup> November 2018, in Arbitration Petition Lod.No.1341 of

2018, which reads as follows:-

“Mr. Manohar Reddy and Mr. Amarnath Reddy, respondent Nos. 1 and 2 are not present despite service. They are therefore, directed to remain present before this Court on 2<sup>nd</sup> November 2018 at 11.00 a.m., failing which the Court shall pass necessary orders to ensure their presence before the Court including issuing a warrant of arrest against them. A copy of this order shall be forthwith served on respondent Nos. 1 and 2 by hand delivery. Stand over to 2<sup>nd</sup> November 2018.”

3] A further order was passed on 2<sup>nd</sup> November 2018 by this Court (S.J.Kathawalla, J) in Arbitration Petition (L) NO.1350 of 2018, granting relief to the petitioner directing the respondents not to obstruct the ingress and egress of petitioner qua the suit plot.

The order reads thus:-

“1. Despite service, the respondents failed to remain present before this Court on 1<sup>st</sup> November 2018. In view thereof, the following order is passed:-

“Mr. Manohar Reddy and Mr. Amarnath Reddy, respondent Nos. 1 and 2 are not present despite service. They are therefore, directed to remain present before this Court on 2<sup>nd</sup> November 2018 at 11.00 a.m., failing which the Court shall pass necessary orders to ensure their presence before the Court including issuing a warrant of arrest against them. A copy of this order shall be forthwith served on respondent Nos. 1 and 2 by hand delivery. Stand over to 2<sup>nd</sup> November 2018.”

2. Again an attempt was made to serve the proceedings on the respondents. However, they have refused service. In view thereof, stand over to 19<sup>th</sup> November 2018.

3. In the meantime, the respondents shall not obstruct ingress and egress of the petitioner qua the suit plot.” **(emphasis added)**

4] Learned Counsel for the petitioner has again placed on record an affidavit of service dated 5<sup>th</sup> February 2019. The respondents even today have not appeared and/or represented. These petitions are accordingly taken up for hearing.

5] Learned Counsel for the petitioner would submit that proceedings to execute the award are already filed on behalf of her clients and are pending before the District Court, Pune being subject matter of Darkhast Petition No.2321 of 2017 and Darkhast Petition No.2322 of 2017, qua the awards in question.

6] A perusal of the reliefs as prayed in these petitions would show that in regard to prayer clause (a) this Court has already granted relief by the order dated 2<sup>nd</sup> November 2018 and with regard

to other reliefs, it can be clearly seen that the award itself has restrained the respondents from creating any third party rights in respect of the suit properties. The award is already being executed in the pending execution proceedings as noted above.

7] In the above circumstances, it would be appropriate that the petitioner is permitted to pursue the pending execution proceedings. These petitions are accordingly disposed of in terms of the order dated 2<sup>nd</sup> November 2018 passed by this Court (supra), leaving all contentions of petitioners open in the pending darkhast proceedings. No orders as to costs.

8] Learned Counsel for petitioners submit that the petitioners have already filed an application seeking expeditious disposal of the Darkhast proceedings. The Execution Court shall deal with the same as expeditiously as possible and in accordance with law.

(G.S.KULKARNI, J.)