

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on 01.08.2019	Orders Pronounced on 07.08.2019
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CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.Nos.690 and 693 of 2019 & 1192 and 1193 of 2019

in

O.P.No.891 of 2015

A.Nos.690 and 693 of 2019

Embassy Property Developments Private Limited
(formerly Dynasty Developers Private Limited)
150, Embassy Point, 150 Infantry Road
Bengalore - 560 001.

.... Applicant in A.Nos.690 and 693 of 2019

vs.

1. SNP Ventures LLP
represented by its General Manager C.P.Subash
(formerly known as SNP Ventures Pvt. Ltd.,)
Door No.4, Plot No.20,
Shanthi Street
Dr.Seethapathy Nagar, Velachery,
Chennai - 600042.
2. Jumbo World Holdings Limited
Sea Meadow House

Blackburne Highway
Road Town,
British Virgin Islands.

3. Dandavati Investments and Trading
Company Private Limited
5th Floor, 'The International'
16, New Marine Lines,
Cross Road No.1, Church gate
Mumbai - 400 020.

.... Respondents A.Nos.690 and 693 of 2019

A.Nos.1192 and 1193 of 2019

1. Jumbo World Holdings Limited
Sea Meadow House
Blackburne Highway
Road Town,
British Virgin Islands.
2. Dandavati Investments and Trading
Company Private Limited
5th Floor, 'The International'
16, New Marine Lines,
Cross Road No.1, Church gate
Mumbai - 400 020.

.... Applicants in A.Nos.1192 & 1193 of 2019

..VS..

1. SNP Ventures LLP
represented by its General Manager C.P.Subash
(formerly known as SNP Ventures Pvt. Ltd.,)
Door No.4, Plot No.20, Shanthi Street,
Dr.Seethapathy Nagar, Velachery,
Chennai - 600042.
2. Embassy Property Developments Private Limited
Represented by its Director K.Y.Gopikrishnan
(formerly Dynasty Developers Private Limited)
150, Embassy Point, 150 Infantry Road
Bengaluru - 560 001.

....Respondents in A.Nos.1192 & 1193 of 2019

A.Nos.690 of 2019 and 1193 of 2019 are filed praying to
stay the operation of the order dated 22.01.2019 passed by the
learned Master in Application No.7256 of 2018 in O.P.No.891 of
2015.

A.Nos.693 of 2019 and 1192 of 2019 are filed praying to
set aside the order dated 22.01.2019 passed by the learned
Master in Application No.7256 of 2018 in O.P.No.891 of 2015.

For Applicant in A.Nos.690
and 693 of 2019

and : Mr.Satish Parasaran
Second Respondent in A.Nos. Senior Counsel
1192 & 1193 of 2019 for
M/s.Madhan Babu

For first respondent in : Mr.T.V.Ramanujam
all four applications Senior Counsel
for
M/s.A.Thayaparan

For Respondents 2 & 3 in
A.Nos.690 & 693 of 2019
and : Mr.Anirudh Krishnan
Applicants in A.Nos.
1192 & 1193 of 2019

COMMON ORDER

A.Nos.690 of 2019 and 1193 of 2019 are filed praying to
stay the operation of the order dated 22.01.2019 passed by the
learned Master in Application No.7256 of 2018 in O.P.No.891 of
2015.

2. A.Nos.693 of 2019 and 1192 of 2019 are filed challenging the order dated 22.01.2019 passed by the learned Master in Application No.7256 of 2018 in O.P.No.891 of 2015 permitting to apply and obtain the certified copies of the award to the third party.

3. The Application No.7256 of 2018 has been filed by the respondent/third party seeking permission to apply and obtain certified copies of the documents forming part of the records in Arbitration of O.P.No.891 of 2015, namely, Arbitral Award dated 31.08.2015 and Share Purchase Agreement dated 21.12.2005 entered into between M/s.Dynasty Developers Private Limited and Jumbo World Holdings Limited. It is the contention of the applicant/third party before the learned Master that he is the absolute owner of 20.45 acres of land situate at Zamin Pallavaram Village, Pallavaram Taluk, Kanchipuram District and the possession of the said lands are with the

applicant/respondent herein. It is the contention that on the basis of the award dated 31.08.2015, a public notice was issued stating that all the movable and immovable properties of the applicant are subject to their rights, which has been confirmed in the Arbitral Award dated 31.08.2015. The above application has been contested by the respondent, mainly, on the ground that the documents sought for by the applicant are confidential documents and the applicant/third party is no way connected with the properties and objected for grant of certified copies. The learned Master has, however, allowed the application for grant of certified copies. Challenging the same, in the form of appeal, these applications have been filed.

4. At the outset, I am of the view that the learned Master being the delegate of the High Court, any order passed by the learned Master cannot be subject to appeal. At the most, it is subject to Review only. Though the appeals are not

maintainable, this Court is of the view that in order to give a quietus, to treat these applications as Reviews filed to review the order and dispose of these applications.

5. The learned Senior Counsel, Mr.Satish Parasaran and Mr.Anirudh Krishnan appearing in all the applications submitted that the award is based on the Share Purchase Agreement entered into between the parties separately, which is in no way connected with the properties and if at all the respondent has claimed any title to the properties, it is for them to establish their right independently and they have no right to seek for the documents, namely the award, which is a confidential matter. Hence, it is the submission of the learned Senior Counsel that the learned Master has not considered his submission and simply allowed the applications and the same has to be set aside.

6. In support of their submissions, they rely upon the Judgment of the Hon'ble Apex Court reported in **2016 (3) SCC 619 (Shailesh Dhairyawan ..vs.. Mohan Balkrishna Lulla), 1999(1) WLR 314 (Ali Shipping Corporation ..vs.. Shipyard Trogir)**, whereas the learned counsel appearing for the respondent would submit that when the award is treated as a decree and capable of execution by a Court, the parties to the award, taking advantage of same, knock out the properties of third parties. In order to establish right over the properties, he has no other go except to obtain certified copies of the award, which is relied upon by the other side. Further, it is their contention that two vital documents pertaining to the title of the respondent have been forged in respect of which, Criminal Complaint is also filed and First Information Report has been filed and investigation is under process. This is the contention that the sale deeds dated 10.03.1922 and 27.06.1922 have been forged as if to trace the title, which has been clearly established

by the letter from the District Registrar, Saidapet, dated 21.01.2010. Now the investigation is under process and the substantive right of the parties to be established and therefore, entitled to certified copies. Hence, the order of the learned Master does not require any interference.

7. I perused the order of the learned Master.

8. As stated above, the applicant before the learned Master is third party, who sought for certified copy of the award. Though it is the contention of the learned Senior Counsel Mr.Sathish Parasaran and learned Counsel Mr.Anirudh Krishnan that the award is with regard to the Share Purchase Agreement, it is to be noted that when the award is treated as a decree and capable of execution, I am of the view that any third party, whose rights are likely to be affected by such award is entitled to get a certified copy. Admittedly, the award is before the Court,

in custody of the public office. Such being the position, third party, who has established before the Court of Law that his right over the immovable property is affected by such award, in order to establish his independent right over the properties, which are said to be affected by the award, certainly entitled to certified copies to establish his substantial right independently. The learned counsel Mr.T.V.Ramanujam has brought to the notice of this Court the sale deed dated 10.03.1922 and 27.06.1922, which are also subject matter of the share purchase agreement, which has been forged. To substantiate his submission, he has also brought to the notice of this Court the reply given by Joint Sub-Registrar indicating that those documents are originally registered by some other person, not as purchased by the respondent. Such being the position, prima facie indicates that the contention of the third party that his right is likely to be affected over the immovable properties is well founded. When the adjudication of the Arbitrator is culminated into award and

the award is brought before the Court, custody of the public office, and any third party is certainly entitled to get certified copies of such award to establish his independent right, which are likely to be affected by such award. Though it is contended that the confidentiality is to be maintained and therefore, such award cannot be given to third parties, in support of their submission, reliance was also placed on the judgment of the Hon'ble Apex Court reported in **2016 (3) SCC 619 (Shailesh Dhairyawan ..vs.. Mohan Balkrishna Lulla)** and in para 26 of the above said judgment, the Hon'ble Supreme Court has held that “non-judicial nature of Arbitration makes it both attractive and effective for several reasons. Apart from it being the cost effective and speedier method of settling the dispute when compared with court adjudicatory method, the confidentiality of the Arbitration process may appeal to those who do not wish the terms of settlement to be known.” The Hon'ble Apex Court has only discussed about the importance of the Alternative Dispute

Redressal by way of Arbitration. Therefore, from the above judgment, it cannot be said that the certified copy of the award cannot be given to anybody. Though the judgment of the Court of Appeal was placed reliance in “**Ali Shipping Corporation ..vs.. Shipyar Trogir**”, on perusal of the same, since there is specific articles governing the parties, provided that all the details and conditions to remain strictly provided confidential and that the circumstances, the Court of Appeal held that the proceedings discussed cannot make to the strangers. The above facts of the judgment cannot be applied. It is to be noticed that the Arbitration Proceedings is adjudicatory in nature. Though Section 30 of the Act enables the Tribunal to encourage the settlement of the dispute, the Tribunal may use of Mediation, Conciliation or other procedure at any time during the Arbitration Proceedings to encourage the settlement. But fact remains that when the settlement not reaches, the Arbitrator has to decide the issue on the basis of the facts in adjudication process.

Therefore, the question of maintaining confidentiality in Arbitral Process does not arise at all. Part-III of Arbitration and Conciliation Act applies only to the conciliation of dispute arising out of legal relationship and the above part shall not apply when the dispute is not submitted to conciliation. Therefore, when the award is passed not based on conciliation, the question of maintaining confidentiality does not arise at all. Accordingly, I do not find any merit in these applications questioning the learned Master's award.

9. Accordingly, all the above applications are dismissed.

Mra

07.08.2019

Speaking / Non-speaking

Index : yes/no

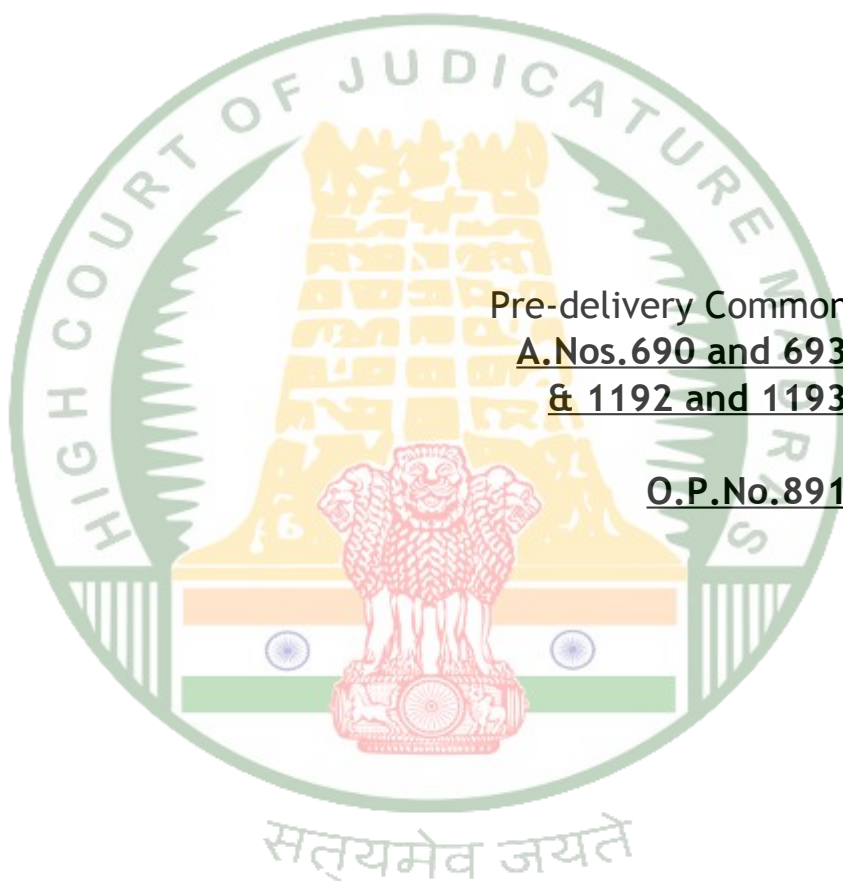
Internet : yes/no

Note : Issue Order copy today (07.08.2019)

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N.SATHISH KUMAR,J.

Mra



Pre-delivery Common order in
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