

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.No.2008 of 2018
and C.M.P.No.15615 of 2018

Pravesh Talwar,
S/o.J.L.Talwar,
60/20, First Floor,
Ramjas Road, Karol Bagh,
New Delhi - 110 005. ... Appellant

versus

1. Kotak Mahindra Bank Limited,
1st Floor, Ceebros Centre,
39, Montieth Road,
Egmore, Chennai - 600 008.
2. Talwar Agencies Private Limited,
Now under Corporate Insolvency
Process under orders of the NCLT,
New Delhi in IB 627ND2018
Dated 06.08.2018.
3. Krishan Kumar Puri,
A 604 605, Ahinsa Niketan Ashinsa Marg,
Chincholi Line Malad,
Mumbai - 220 064.

Jia Lal Talwar (deceased) ... Respondents

Prayer: Appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996, to set aside the order dated 10.07.2018 passed by the Arbitral Tribunal in I.A.No.55 of 2018 in KMB/X55/2018 as illegal and without jurisdiction.

For Appellant : Mr.Sharath Chandran
For Respondent No.1 : Mr.M.Arunachalam

J U D G M E N T

This Civil Miscellaneous Appeal has been filed challenging the order of the learned Arbitrator dated 10.07.2018 in I.A.No.55 of 2018 in KMB/X55/2018.

2. The learned counsel for the appellant submitted that the learned Arbitrator has no power to pass an interim order, in view of the removal of amendment under Section 17 of the Arbitration and Conciliation Act, 2015.

3. The learned counsel for the first respondent fairly submitted that in view of the amendment, post award interim order is not maintainable. He further submitted that since the award has already passed, they are preparing to work out their remedy before the appropriate forum. His submission is recorded.

4. Since the learned Arbitrator directed the claimant to restrain the respondents from creating any encumbrance, such direction certainly not unworkable and not maintainable in the eye of law. The direction can be given only as against the party restraining him from making any encumbrance over the property. Such direction can be granted to any other party to direct him not to create any such encumbrance. Further, it is only a money claim, instead of enforcing the money decree by bringing the property for sale by way of attachment. For realising the award amount, the Receiver cannot be appointed to take possession of the property.

5. Accordingly, the award dated 10.07.2018 in I.A.No.55 of 2018 in KMB/X55/2018 passed by the learned Arbitrator is set aside and this Civil Miscellaneous Appeal is allowed. Consequently, connected Civil Miscellaneous Petition is closed. However, there is no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

1.The Sole Arbitrator,
(Mrs.Deepa Vasumitran) Advocate,
12,6th Cross Street,
C.I.T .Colony, Mylopre, Chennai-04.

+1 cc to M/s.M.Arunachalam, Advocate Sr.No. 25083

+1 cc to M/s.Govind Chandrasekar, Advocate Sr.No. 25158

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NMI (CO)
RMP (16/12/2020)