

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.No.2161 of 2018
and C.M.P.No.16889 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. K.P.International
T-45, Gali Moti NGR Gaushali Road,
New Rotak RD, Delhi - 110 005.
Also at
K.P.International,
F47, Desh Bandhu Gupta Market,
Karol Bagh, New Delhi - 110 005.
3. Meera Talwar,
W/o.Pravesh Talwar,
60/20, First Floor, Ramjas Road,
Karol Bagh, New Delhi - 110 005.
4. Jia Lal Talwar (since Deceased) ... Respondents

Prayer: Appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996, to set aside the order dated 02.08.2018 passed by the Arbitral Tribunal in I.A.No.25 of 2018 in KMB/U/25/2018 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 post award interim order passed by the learned Sole Arbitrator, directing the claimant to restrain the respondents from disposing off the properties and also to appoint the Receiver for the possession and custody of the properties.

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. Having regard to the above submissions, this Court finds that the post award interim order passed by the learned Arbitrator is against the rudimentary principles of law. The order directing the claimant to restrain the respondents from disposing off the properties is unworkable and not maintainable in the eye of law. Similarly, the dispute is only with regard to the money decree, instead of enforcing the money decree by bringing the property for sale by way of attachment. For realising the award amount, appointing the Receiver to take possession of the properties also does not arise at all.

5. In such view of the fact, this Court holds that the order passed by the learned Arbitrator is not maintainable in the eye of law. Accordingly, the award dated 02.08.2018 in I.A.No.25 of 2018 in KMB/U/25/2018 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

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Sub Assistant Registrar

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To

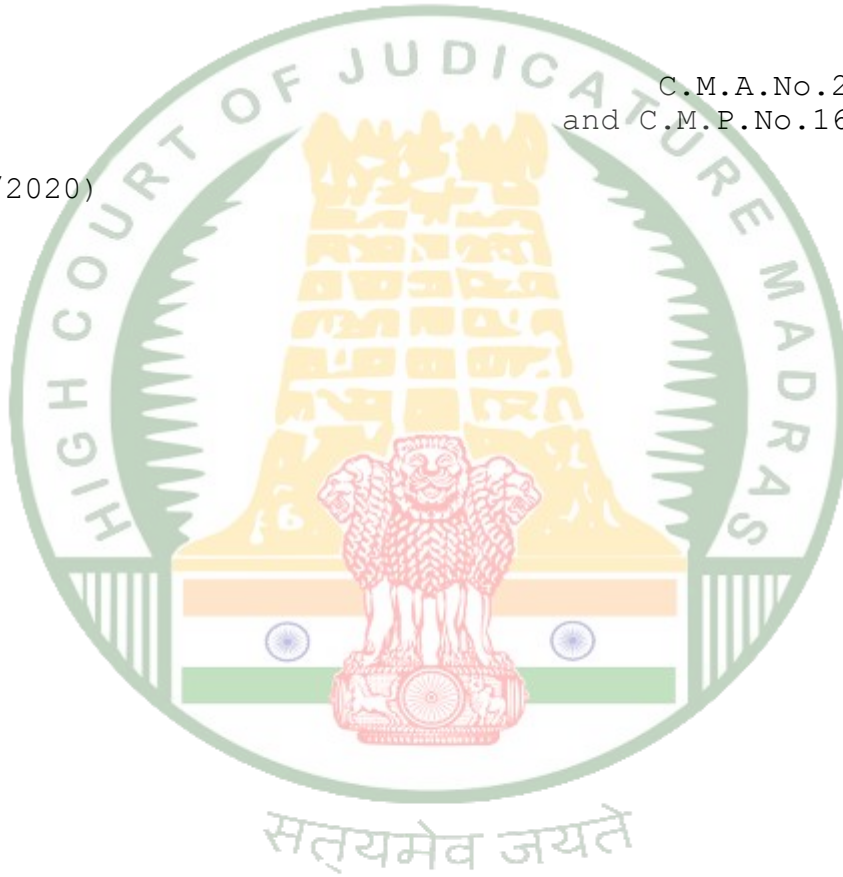
1.The Sole Arbitrator
(Mrs.Deepa Vasumitran), Advocate,
12,6th Street, C.i.T.colony,
Mylapore, Chennai-4.

+1 cc to M/s.M.Arunachalam,Advocate Sr.No. 25084

+1 cc to M/s.Govind Chandrasekhar, Advocate Sr.No. 25159

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



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