

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.No.3551 of 2019
and C.M.P.Nos.20692 and 20694 of 2019

Dr.Vuppala Subha Rao,
Rep. by its Power of Attorney,
Vuppala Subha Raju,
S/o.Late Subha Rao,
D.No.5-9-2, Bigbazar,
Samalkota - 533 440.
Andhra Pradesh

.. Appellant/Petitioner/
proposed 3rd Respondent

versus

1.M/s.Cholamandalam Investment and
Finance Company Ltd.,
1st Floor, No.2, NSC Bose Road,
Chennai - 600 001, Tamilnadu.

2.Desetti Lakshmi Prasanna Kumari ..Respondents/Claimant/
2nd Respondent

Prayer: Appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996, to set aside the order made in I.A.No.2 of 2018 in Arbitration Case No.CIFCL/ARB/L-XVIII/1608/2017 on the file of the Arbitrator, Chennai.

For Appellant : Mr.R.Dhanaram
For Respondent No.1 : Mr.B.Anand Johnson
For Respondent No.2 : Mr.Bheru Singh
for M/s.Girdhar and Sai

J U D G M E N T

This appeal has been filed as against the order of the learned Arbitrator in dismissing the application filed by the appellant to implead himself as a party.

2. The main ground, on which, the impleadment was sought by the appellant is that, he purchased an extent of 97.66 sq.yards on 31.12.2015, which was much prior to the mortgaged by the second respondent in favour of the first respondent.

Besides, the appellant has also relying the subsequent Sale Deeds said to have been executed by the second respondent in favour of the appellant, after 31.05.2016. Now, the learned Arbitrator has dismissed the application on the ground that the Tribunal cannot go into the issue of fraud alleged to have been played on the appellant. As against which, the present appeal has been filed.

3. The learned counsel for the first respondent fairly submitted that admittedly prior to the mortgage, an extent of 97.66 sq.yards were sold by the second respondent on 31.12.2015 itself. However, the second respondent suppressing the above sale has mortgaged the above extent also. Hence submitted that, as the Sale Deed is the earlier document, the second respondent did not have any title after sale to mortgage the property and they are not pressing the claim in respect of 97.66 sq.yards, which was sold on 31.12.2015. His submission is recorded.

4. If the first respondent is not proceeding as against the extent, which was already purchased prior to the mortgage, this Court is of the view that the rights of the appellant will be protected. In such view of the matter, impleading the appellant with the arbitral proceedings does not arise at all.

5. With the above observations, this Civil Miscellaneous Appeal is disposed of. Consequently, connected Petitions are closed. However, there is no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sri

To
Mr.P.Ganesan,
Sole Arbitrator,
District Judge(Rtd) Chennai-1.

VSNI (CO)
RMP (10/11/2020)

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