

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Application Nos.7338 to 7344 of 2019

M/s.Anugraha Real Value Services
(Chennai) Pvt. Ltd.,
Rep. by its Authorised Signatory
B.Thiruselvan
Having Office at Nos.91, and 92,
Kodambakkam High Road,
Nungambakkam,
Chennai - 600 034.

.... Applicant
[in all Applications]

1.D.Lakshmi Thayarammal
2.S.Sasi
3.D.Damodaran
4.S.Rajendiran
5.Bakiya
6.R.Deepika
7.R.Gokul

... Respondents
[in A.No.7338 of 2019]

1.D.Venkatapathy Naidu
2.V.Govindarajan
3.V.Krishnamoorthy

... Respondents
[in A.No.7339 of 2019]

1.U.Ravichandran
2.U.Parthiban

3.R.Kasthuri
4.V.Ganthimathi
5.M.Magila ... Respondents
[in A.No.7340 of 2019]

1.P.Adhavan
2.A.Nagabooshnam ... Respondents
[in A.No.7341 of 2019]

1.Thulukanammal
2.P.Santhi ... Respondents
[in A.No.7342 of 2019]

1.G.Amaravathy
2.G.Ravikumar
3.K.Shanthi
4.G.Jaisankar
5.G.Raji
6.G.Raman
7.G.Balaji
8.G.Saradha ... Respondents
[in A.No.7343 of 2019]

1.V.Ramesh
2.D.Suresh ... Respondents
[in A.No.7344 of 2019]

Common Prayer: Applications filed under Order XIV Rule 8 of Original Side Rules read with Section 9(ii)(a)(b)&(e) of the Arbitration and Conciliation Act, 1996, to pass an order by directing the respondents not to alienate the schedule mentioned property pending award.

For Applicant : Mr.Anand Johnson
[in all Applications] for Mr.S.Namasivayam

For Respondents : Mr.N.C.Ramesh,
[in A.Nos.7338, 7339, 7340, Senior Counsel
7342 to 7344 of 2019] for Mr.S.Ganesh

For Respondents : Mr.S.Mani
[In A.No.7341 of 2019]

COMMON ORDER

These Applications have been filed seeking for an interim measure preventing the respondents from encumbering or alienating the properties pending arbitral proceedings.

2. It is an undisputed fact that the parties entered into Sale Agreements and Supplementary Agreements commencing from the years 2015, 2016 and 2017 for the sale of properties. Now, the dispute arose between the parties and the clause has also provided for arbitration. This Court, by an order dated 27.09.2019 granted interim injunction restraining the respondents in all these applications from alienating or encumbering the properties.

3. Heard Mr.Anand Johnson, representing Mr.S.Namasivayam, learned counsel for the applicant, Mr.N.C.Ramesh, learned Senior Counsel representing Mr.S.Ganesh, learned counsel for the respondents in A.Nos.7338, 7339, 7340, 7342 to 7344 of 2019 and Mr.S.Mani, learned counsel for the respondent in A.No.7341 of 2019.

4. Though the learned counsels had made submissions with regard to the merits of these applications, this Court is able to see that there is no dispute with regard to refer these matters for arbitration. Further, the clause of the agreement stipulates that, if any dispute or difference shall arise as to the quantum to be paid under the agreement, the same shall be referred to the Arbitrator. Both learned counsels submitted that this Court may appoint a common sole Arbitrator, preferably a retired Hon'ble Judge of this Court, to enter reference in all these matters.

5. The learned counsel for the respondents in A.No.7341 of 2019 submitted that if remaining sale consideration is paid within a period of two(2) months from today as per the Supplementary Agreements, they are ready to execute the Sale Deed. Whereas the learned counsel for the applicant submitted that they will pay only as per the original Agreements and not as per the Supplementary Agreements. This Court is of the view that as the Supplementary Agreements are earlier Agreements and the submission of the learned counsel for the applicant cannot be appreciated, at any event, since there is a dispute, the above matters are referred to the arbitrator.

6. Though an application under Section 11 of the Arbitration and Conciliation Act, 1996 is not filed separately, taking note of the fact that there is no dispute to have a resolution as per the contract and with the consent of both sides, it is ordered as follows:

i) Hon'ble Mr.Justice N.Paul Vasanthakumar, Former Chief Justice of the Jammu and Kashmir High Court, residing at “ASHIRVADH”, No.24-A, II Street, Kamaraj Avenue, Adyar, Chennai - 600 020, Contact No.044 24452817, is appointed as the Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

ii) The learned Arbitrator may, after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order. The learned Arbitrator shall disclose the particulars as required in the Arbitration and Conciliation Act.

iii) The learned Arbitrator is at liberty to fix his remuneration and other incidental expenses as per law.

7. The applicant shall file a claim statement before the learned arbitrator within a period of three(3) months from today. Till such time, the interim order granted by this Court shall continue. Thereafter, it is open to the applicant to approach the learned Arbitrator for appropriate relief under Section 17 of the Arbitration and Conciliation Act.

8. These Applications are, accordingly, closed.

25.08.2020

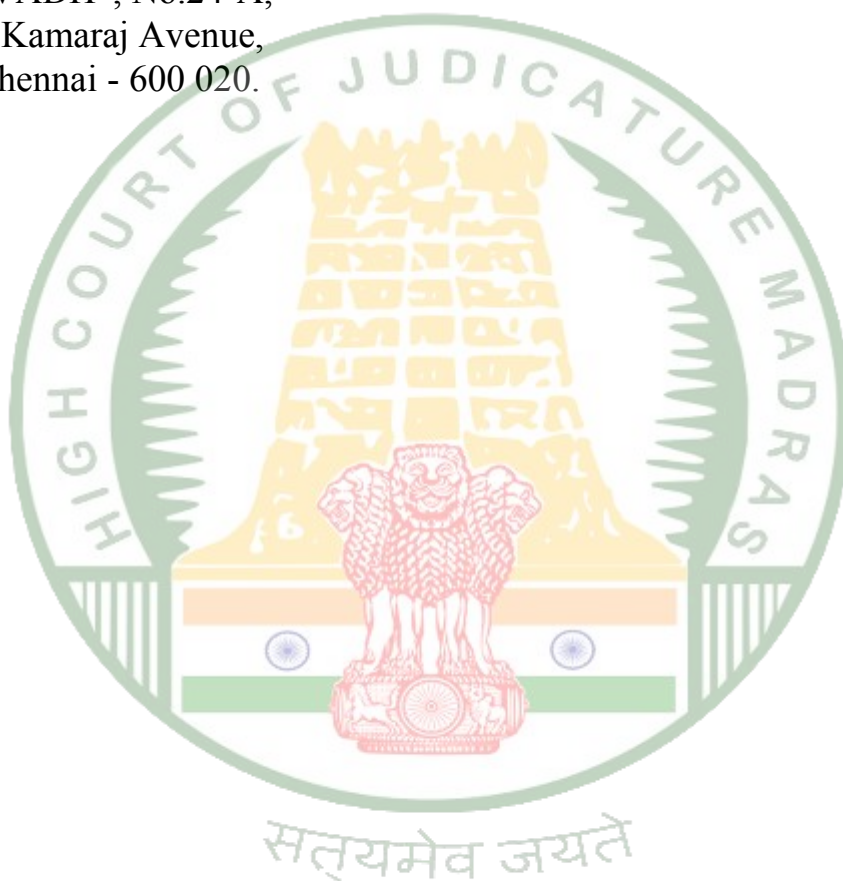
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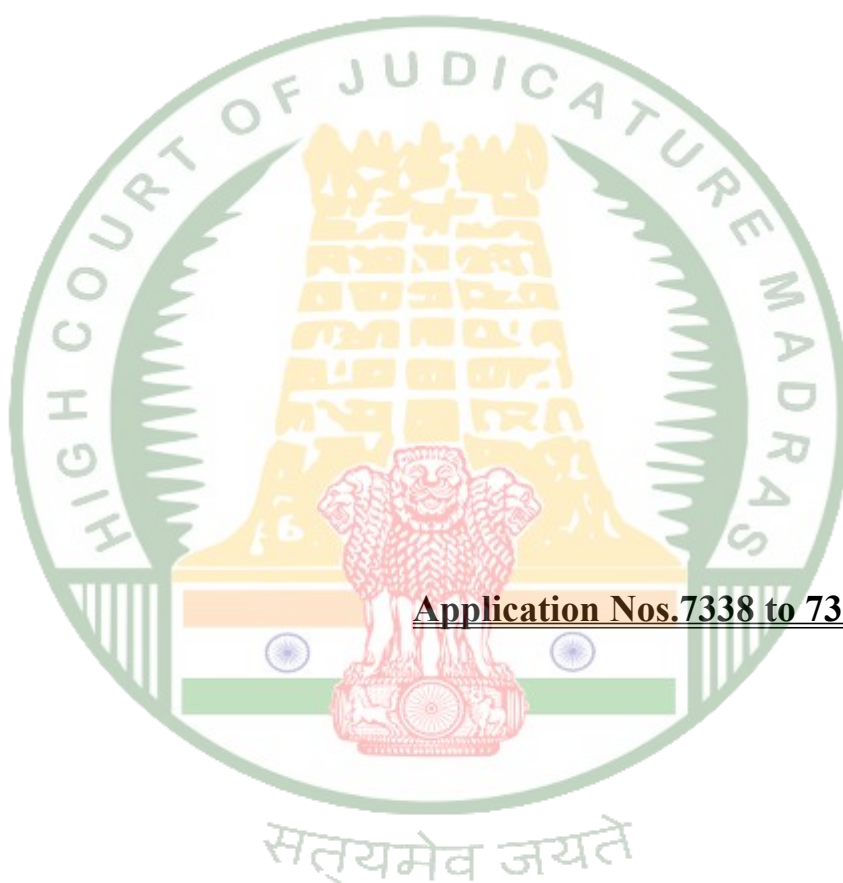
The Hon'ble Mr.Justice N.Paul Vasanthakumar,
Former Chief Justice of the Jammu and Kashmir High Court,
“ASHIRVADH”, No.24-A,
II Street, Kamaraj Avenue,
Adyar, Chennai - 600 020.



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N.SATHISH KUMAR, J.

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