

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Application No.7510 of 2019

M/s.Cholamandalam Investment and
Finance Company Limited,
'Dare House', No.2, N.S.C.Bose Road,
Parrys, Chennai - 600 001.

Represented by its Authorised Signatory

Applicant

versus

1.Baneshwar Mohanty,
S/o.Nandakishor Mohanty

2.Nandakishor Mohanty,
S/o.Gokula Mohanty

Respondents

Prayer: Application filed under Order XIV Rule 8 of Original Side Rules read with Section 9(ii)(b) of the Arbitration and Conciliation Act, 1996, to direct the respondents to furnish security for the sum of Rs.1,17,981/- within a time fixed by this Court, failing which to order attachment of the immovable properties morefully described in the Schedule to the Judges Summons pending initiation and disposal of arbitration proceedings between the applicant and the respondents and till enforcement of the award that may be ultimately passed in the arbitration proceedings and a copy of the attachment order be transmitted through the learned District and Sessions Judge, Sundergarh, Orissa and the attachment order may be hand delivered to the applicant for transmission.

For Applicant	: Mr.D.Pradeep Kumar
For Respondents	: No Appearance

ORDER

This application has been filed by the applicant, seeking a direction to the respondents to furnish security for the sum of Rs.1,17,981/- within a time fixed by this Court, failing which to order attachment of the immovable properties morefully described in the Schedule to the Judges Summons pending initiation and disposal of arbitration proceedings between the applicant and the respondents and till enforcement of the award that may be ultimately passed in the arbitration proceedings and a copy of the attachment order be transmitted through the learned District and Sessions Judge, Sundergarh, Orissa and the attachment order may be hand delivered to the applicant for transmission.

2. Security was ordered to be furnished by order of this Court dated 03.06.2020. Notice sent to the first respondent was returned with an endorsement "refused" and an affidavit of service is also filed enclosing returned cover. Notice sent to the second respondent was returned with an endorsement "expired" and an affidavit of service is also filed enclosing returned cover. Though the name of the first respondent is printed in the cause list after service by paper publication, there is no representation for him either in person or through counsel. Hence, service to the first respondent is held sufficient.

3. The first respondent availed of finance facilities pursuant to Loan Agreement No.XVFPRRA00001041215 dated 18.09.2013 for a sum of Rs.1,69,300/- towards purchase of a vehicle. On account of defaults in repayment, proceedings for arbitration have been initiated and are pending in Arbitration Case. Since the second respondent has expired, the first respondent, who is the son of the second respondent is liable to pay a sum of Rs.1,17,981/-, together with interest.

4. In view of the above circumstances, this Court is satisfied that the prayer sought for by the applicant is warranted. Therefore, there shall be an order of attachment in respect of the share of the first respondent, as prayed for in the Judges summons and a copy of the attachment order be transmitted through the learned District and Sessions Judge, Sundergarh, Orissa and the same may be hand delivered to the applicant for transmission. Needless to mention, the order of attachment is subject to the result of the arbitration stated to be pending as between the parties.

5. In view of the above, nothing further survives in this application and the same stands closed. The parties are free to take such action, as they may desire hereinafter, in accordance with law.

sri

17.08.2020

N.SATHISH KUMAR, J.
sri



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