

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Application No.8751 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.Bhavnesb Thakorbbhai Patel,
S/o.Thakorbbhai Patel,
253, New Magdalla, Saraswati School,
Surat, Gujarat - 395 007.

2.Thakorbbhai Patel,
S/o.Chhimanbbhai Patel,
253, New Magdalla, Saraswati School,
Surat, Gujarat - 395 007.

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.15,69,462.92 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 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 District Court, Surat, Gujarat 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.15,69,462.92 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 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 District Court, Surat, Gujarat 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 18.03.2020. Notices sent to the respondents were served and an affidavit of service is also filed enclosing acknowledgement card. Though the name of the respondents are printed in the cause list after service by paper publication, there is no representation for them either in person or through counsel. Hence, service to the respondents is held sufficient.

3. The first respondent availed of finance facilities pursuant to Loan Agreement No.XVFPSRT00001940903 dated 25.03.2017 for a sum of Rs.25,60,000/- towards purchase of a vehicle. On account of defaults in repayment, proceedings for arbitration have been initiated and are pending in Arbitration Case. As of 05.11.2019, the respondents are liable to pay a sum of Rs.15,69,462.92 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 as prayed for in the Judges summons and a copy of the attachment order be transmitted through the District Court, Surat, Gujarat 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.

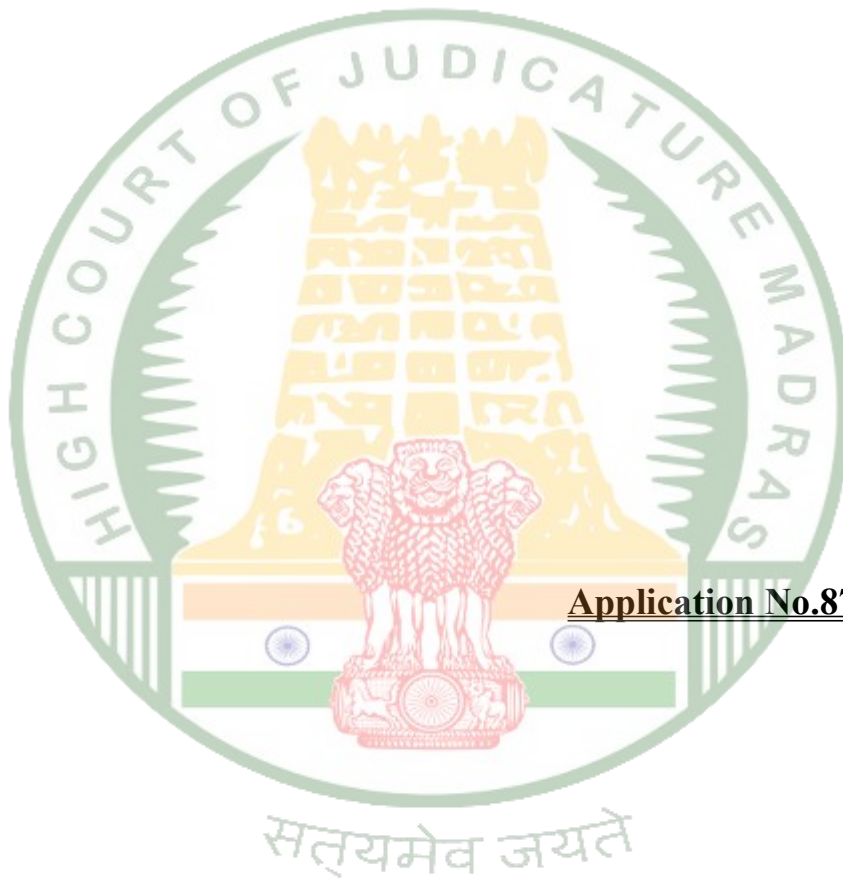
5. In view of the above, nothing further survives in this application and the same stands closed. The parties are free to take such action, as they may desire hereinafter, in accordance with law.

03.08.2020

sri

N.SATHISH KUMAR, J.

sri



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