

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 10.09.2020

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

A.No.8864 of 2019

Sundaram Finance Limited,
rep. by its Senior Manager (Legal),
Mr. S.Sornaraj,
21, Patullos Road,
Chennai-600 002.

... Applicant

Vs

Mr.K.Subramaniam,
S/o. Mr. K.Karuppanna Gounder,
Old No.19-B, N.No.40,
Kamarajar Street, Tambaram,
Chennai-600 045.

... Respondent

PRAYER : Application filed under Order XIV Rule 8 of Original Side Rules r/w Section 9(ii) (b) & (e) of the Arbitration and Conciliation Act, 1996, praying to pass an order of appointment of an Advocate Commissioner to seize and deliver the machinery with accessories morefully described in the schedule herein available at the respondent premises or wherever found

and with whomsoever it is found and entrust the custody of the same to the applicant, and permit the Advocate Commissioner to obtain police aid and to break open the premises.

For Applicant : Mr.S.Suresh

For Respondent : Mr.Abhishek for
M/s.AL. Ganthimathi

ORDER

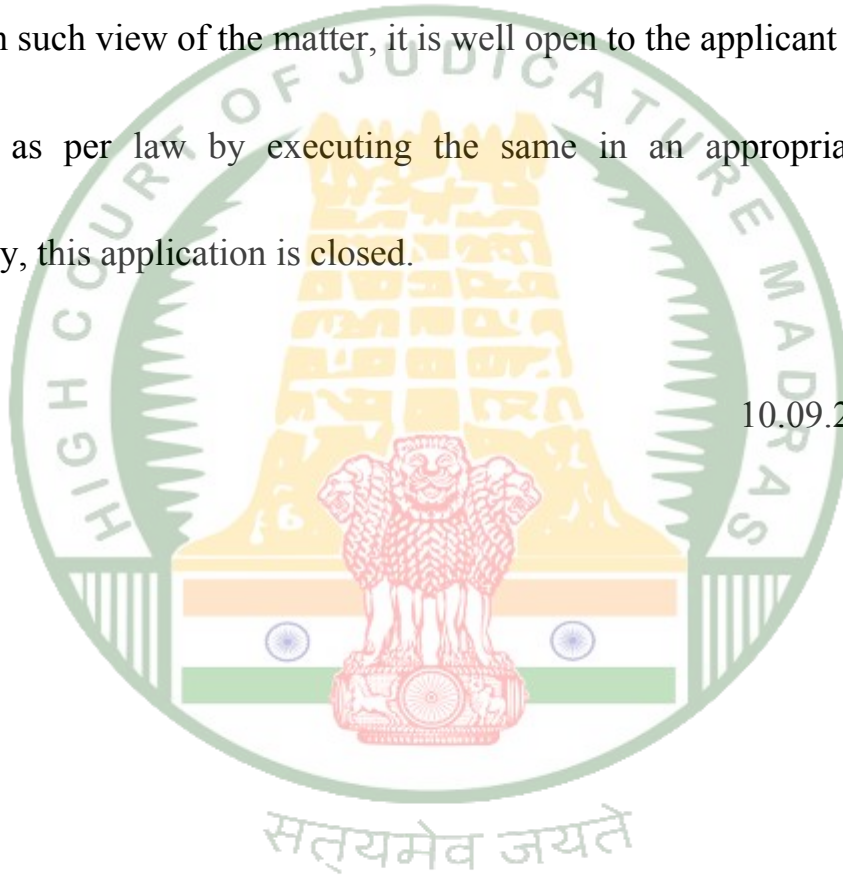
This application has been filed praying to pass an order of appointment of an Advocate Commissioner to seize and deliver the machinery with accessories morefully described in the schedule herein available at the respondent premises and entrust the custody of the same to the applicant, and permit the Advocate Commissioner to obtain police aid and to break open the premises.

2. This Court is of the view that such order cannot be granted in this application. Once the award is passed, when time for filing the application to set aside the award is expired, the award has to be enforced as a decree of Civil Court as per Section 36 of Arbitration and Conciliation Act. Without

enforcing the award as per law, one cannot convert Section 9 application at execution proceedings. Such application is entertained and continued, this Court is of the view that the very object of Section 9 of the Act would be defeated. In such view of the matter, it is well open to the applicant to enforce the award as per law by executing the same in an appropriate forum. Accordingly, this application is closed.

10.09.2020

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N.SATHISH KUMAR, J.

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