IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 30th DAY OF JULY 2021

THE HON'BLE MR. JUSTICE N.SATHISHKUMAR

Arb. A.No.97 of 2021

In the matter of Arbitration & Conciliation Act, 1996

And

In the matter of Disputes between M/s Cholamandalam Investment and Finance Company Ltd. and Mr.Shabbir Ahmed & another Arising under Loan Agreement No. XVFPBOI00002145565 Dated 25.10.2017.

M/s. Cholamandalam Investment and Finance Company Limited,
No.45, Justice Basheer Ahmed sayedd Building,
Iind Floor, 2nd Line Beach, Moore Street,
Parrys, Chennai – 60 001.
Represented by its Authorised Signatory

...Applicant

Vs.

1. Mr.Shabbir Ahmed
S/o. Javed Ansari,
AT- Dhanani Nagar, Shigaon Road,
Boisar, Tal Palghar, Thane, Opp Das Kirana,
Maharashtra – 401501

2.Mr.Javen Ahmed Karamali Ansari
S/o. Karamali Ansari,
AT- Dhanani Nagar, Shigaon Road,
Boisar, Tal Palghar, Thane, Opp Das Kirana,
Maharashtra – 401501

...Respondents

Arbitration Application praying that this Hon'ble Court be pleased to direct the Respondents to furnish security for the sum of Rs.1,61,278/- within a time fixed by this Hon'ble 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 District court, Palghar, Maharashtra and the attachment order may be hand delivered to the applicant for transmission.

This Arbitration Application coming on this day before this court for hearing in the presence of Mr.D.Pradeep Kumar, advocates for the applicant herein and the respondents herein, not appearing in person or by advocate and upon reading the judge's summon and the affidavit of S.Sivasubramanian filed herein and this Court is of the view that despite the vehicle having been sold in the month of January 2021 still the arbitration clause has not been invoked, which would indicate that there is no manifest intention on the part of the applicant and this Court is not inclined to entertain the prayer for interim relief as the allegation has not given rise to any cause of action and

it is ordered as follows:-

That the Arb. A.No.97 of 2021, be and is hereby dismissed.

2) That in the event of appointment of an Arbitrator the applicant herein shall be at liberty to seek interim relief before the Arbitrator.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 30th DAY OF JULY 2021.

Sd/-
ASSISTANT REGISTRAR (O.S.II)
//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

SR

R-13.09.2021

Arb. A. No.97 of 2021

ORDER

DATED: 30.07.2021

THE HON'BLE MR.JUSTICE
N.SATHISH KUMAR

FOR APPROVAL: 14.09.2021

APPROVED ON: 14.09.2021

THE HIGH COURT OF JUDICATURE AT MADRAS

Date 30.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE **N. SATHISH KUMAR**

Arb.Appln.No.97 of 2021

M/s.Cholamandalam Investment and Finance
Company Limited,
No.45, Justice Basheer Ahmed Sayeed Building,
II Floor, 2nd Line Beach, Moore Street,
Parrys, Chennai – 600 001.
Represented by its Authorised Signatory

. . . Petitioner

Versus

1. Mr.Shabbir Ahmed
   S/o. Javed Ansari

2. Mr.Javen Ahmed Karamali Ansari
   S/o. Karamali Ansari

. . . Respondents

PRAYER: Application filed under Section 9 of Arbitration and Conciliation Act, 1996 to direct the respondents to furnish security for the sum of Rs.1,61,278/- 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

District Court, Palghar, Maharashtra and the attachment order ma be hand delivered to the applicant for transmission.

For petitioner : Mr.D.Pradeep Kumar

For respondent : No Appearance

O R D E R

This application has been filed to furnish security for the sum of Rs.1,61,278/- 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 District Court, Palghar, Maharashtra and the attachment order may be hand delivered to the applicant for transmission.

2. On perusal of application it makes it clear that despite the vehicle having been sold in the month of January 2021, still the arbitration clause has not been invoked, which would indicate that there is no manifest intention on the part of the applicant.

3. In view of this, this Court is not inclined to entertain the prayer for interim relief as the allegation has not given rise to any cause of action.

Accordingly, this application is dismissed. It is open to the applicant, in the event of appointment of an Arbitrator, to seek interim relief before the Arbitrator.

Sd./-N.S.K.J.,
30.07.2021

// Certified to be true copy//
Dated at Madras this day of 2021.

Court Officer(O.S.)

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