

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 14TH DAY OF DECEMBER 2021

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

Arbitration Application No.289 of 2021

in

A. No.7878 of 2019

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.Edwardraja Singh S & Another
arising under Loan Agreement No.
XVFPMDM00002210567 Dated
21.12.2017.

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/Applicant

-Versus-

1.Mr.Edwardraja Singh S,
S/o Singararajan,
No.16/32, Thundatharavilai,
Vellamcode, Chitharal PO,
Vilavancode, Kanyakumari,
Near Junction, Tamilnadu – 629 151.

2.Mr.Rajini J,
W/o Singararajan,
No.16/32, Thundatharavilai,
Vellamcode, Chitharal PO,
Vilavancode, Kanyakumari,
Near Junction, Tamilnadu – 629 151. ... Respondents/Respondents

Arbitration Application praying that this Hon'ble Court be pleased to raise the order of attachment dated 04.09.2020 made in Application No.7878 of 2019 attaching the immovable property morefully described in the schedule to the Judges Summons and a copy of the order raising attachment be transmitted through the Subordinate Court, Kuzhithurai and communicated to Sub Registration District of Arumanai.

This Arbitration application coming on this day before this court for hearing in the presence of Mr.N.Santhosh Nagarajan, Advocate for the Applicant herein, and Mr.P.Rathanavel, Advocate for the Respondents herein, and upon reading the Judge's Summons and the Affidavit of S.Sivasubramanian filed herein in Arb.A.No.289 of 2021 and the order dated 04.09.2020 made in A.No.7878 of 2019, and the learned counsel for the respondent having submitted that he intends to return the brief on account of the non-cooperation of the respondents, **it is ordered** :-

That the order of attachment granted in pursuance of the order dated 04.09.2020 made in A. No.7878 of 2019 attaching the immovable properties morefully setout in the schedule hereunder, be and are hereby raised.

Schedule of Property

Property owned by 2nd Respondent

Land comprised in Survey Nos.4752/95 & 738/33 measuring an extent of 5 Cents in Velavancode Village having bounded on the

North by Executor's Land

South by R.S.No.738/34

East by Road

West by Executor's Land

Within SRO Arumanai.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI, ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 14th DAY OF DECEMBER 2021.

Sd/-
ASSISTANT REGISTRAR (COMM.CASES)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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

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30.12.2021

Arbitration Application No.289 of 2021
in
A. No.7878 of 2019

ORDER :-

DATED: 14.12.2021

THE HON'BLE MR.JUSTICE
SENTHILKUMAR RAMAMOORTHY

FOR APPROVAL: 03.01.2022

APPROVED ON: 06.01.2022

Copy to:

1. The Subordinate Court,
Kuzhithurai.

2. The Sub Registrar,
The Sub Registrar Office,
Arumanai.

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Application praying that this Hon'ble Court be pleased to raise the order of attachment dated 04.09.2020 made in Application No.7878 of 2019 attaching the immovable property morefully described in the schedule to the Judges Summons and a copy of the order raising attachment be transmitted through the Subordinate Court, Kuzhithurai and communicated to Sub Registration District of Arumanai.

This Application coming on this day before this court for hearing

the court made the following order:-

This application is filed to raise the order of attachment dated 04.09.2020 in A.No.7878 of 2019.

2. The applicant is the financial institution which extended loan facilities to the respondents. The applicant had earlier approached this Court in view of the failure of the respondents to discharge their loan application. The order of attachment dated 04.09.2020 was issued on such earlier application. The present application is filed on account of the change in circumstances, whereby the respondents have entered into a settlement with the applicant and made payments to the applicant in terms thereof. The applicant has categorically stated as under in paragraph 4 of the affidavit in support of this application:

“.... I state that after the attachment of the immovable property the respondent entered into settlement

with the applicant and paid the amount.”

3. Notice was issued to the respondents. Upon receipt of notice, the respondents engaged the services of Mr.P.Rathanavel, learned counsel. At the hearing today, Mr.P.Rathanavel submits that he intends to return the brief on account of the non-cooperation of the respondents.

4. If the present application is allowed, it would clearly enure to the benefit of the respondents in as much as the order of attachment of the immovable assets of the respondents would be lifted. In these facts and circumstances, it is not necessary to issue fresh notice to the respondents.

5. For reasons set out above, application No.298 of 2021 is allowed by raising the order of attachment dated 04.09.2020 in A.No.7878 of 2019 whereby the immovable property described in the schedule of the Judges summons was ordered to be attached. The applicant shall communicate a copy of this order to the respondents within one week from the date of receipt thereof. A copy of this order shall also be transmitted to the Subordinate Court, Kuzhithurai so as to communicate the same to the jurisdictional Sub Registrar at Arumanai.

Sd./-S.K.R.J.
14.12.2021

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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