

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2018

CORAM

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH**

O.P.No.30 of 2017  
and A.No.344 of 2017

A.Chidambaram ... Petitioner

Vs.

1.Dr.S.Rajagopal

2.Mrs.Vasuki Rajagopal

3.S.Venkataraman

4.Mr.Justice K.Venkataraman,  
Former Judge, Madras High Court,  
(Sole Arbitrator),  
L-125, 17<sup>th</sup> Street,  
Anna Nagar East, Chennai-600 102.

... Respondents

Petition filed under Section 37 of the Arbitration and Conciliation Act, 1996 to set aside the order passed in I.A.No.1 of 2014 in O.A.No.1 of 2014 dated 11.10.2014 by the learned Arbitral Tribunal.

For Petitioner : Mr.R.Muniapparaj

For RR1 & 2 : Mr.K.Sampathkumar

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### ORDER

This original petition has been filed by the applicant challenging the order passed in I.A.No.1 of 2014 in O.A.No.1 of 2014 dated 11.10.2014, by which an application filed seeking attachment of the properties belonging to the first respondent was rejected on the ground that there was no specific averment as mandated under Order 38 Rule 5 of Civil Procedure Code.

2.Learned counsel appearing for the applicant would submit that despite the notice issued followed by cancellation of power of attorney, sale has been effected for a consideration, which was more than 10 times the one fixed in the Sale Deed. The third respondent was already arrested and in custody. As of now, for the fault committed, the Civil Procedure Code is not required to be followed in original petition being part of procedural law in exercise of the power under the Arbitration and Conciliation Act by the arbitrator.

3.Learned counsel appearing for the respondents 1 and 2 would submit that the sale was effected in the year 2007 and there is no material to hold that a notice was issued followed by cancellation of power of attorney prior to the sale. The applicant has received the

entire sale consideration. The proceedings before the learned arbitrator has reached final stage.

4.Considering the submissions made, this Court is of the view that it would be appropriate to request the learned arbitrator to expedite the proceedings and conclude it within a period of three months from the date of receipt of a copy of this order. Now, it appears that the property, which is subject matter of the power of attorney followed by a sale has changed several hands. The issues raised are to be decided later finally by the learned arbitrator. Therefore, in order to meet the ends of justice, the first respondent is directed not to alienate or encumber the property sought to be attached, till the disposal of the proceedings. It is made clear that the parties will have to cooperate with the learned arbitrator to expedite the proceedings so as to render award. No costs. Consequently, Application No.344 of 2017 is closed.

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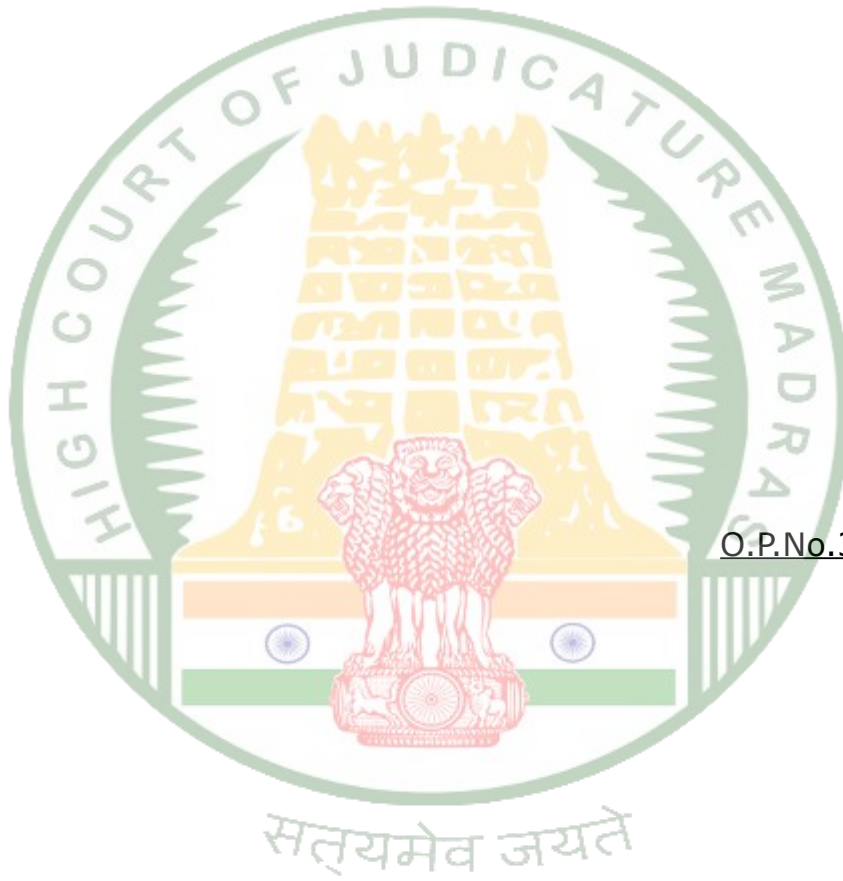
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Index : Yes/No

Speaking/Non Speaking Order

M.M.SUNDRESH, J.

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