



WEB COPY



C.M.P.No.17253 of 2022

C.M.P.No.17253 of 2022
in
C.M.A.SR.No.106079 of 2022

P.T.ASHA, J.,

The petitioner has challenged the order passed by the learned Arbitrator under Section 17 of the Arbitration and Conciliation Act, 1996 in Arbitration Interim Application No.1 of 2021 in A.C.P.No.(CIFCL).No.45 of 2021 dated 05.03.2021 by the Sole Arbitrator, Shri EMKS Siddharthar, - District Judge (Retd.,) Advocate Chennai, in and by which the property comprised in Survey No.221/2 admeasuring to an extent of 6.67 acres situated at Sangagiri Village, Salem has been attached.

2. The grievance of the petitioner is that he is one of the co-owners of the above property having a 8/48 share in the said property. It is his case that by reason of the interim order, even his share of the property has been attached. He would further submit that apart from 8/48 share, he had also purchased the share of some of the co-owners and as on date he owns 3/4th share of the suit property and his father



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Nallamuthu had gifted his 1/4th share in the suit schedule property upon the petitioner, he has now been become the absolute owner of the property. The 2nd respondent before the Arbitral Tribunal who is the son of one Kumaresan had borrowed money from the claimant by hypothecating his vehicle. Since there was a default in paying the loan amount, the claimant instituted arbitral proceedings against the respondents 2 and 3 herein, who are the respondents 1 and 2 before the Tribunal. The property that had been attached had been purchased in the year 2012 by the petitioner herein and others including the 3rd respondent's father Kumaresan. The said Kumaresan had only a 8/48 share in the attached property. This share was purchased by the petitioner's father under a registered sale deed dated 10.03.2016 and the same was gifted by his father to the appellant under the registered sale deed dated 26.08.2021. Therefore, the petitioner is the absolute owner of the attached property despite which he has not been put on notice about the attachment proceedings and considering the fact that his property has been attached without notice to him, he sought to be impleaded in the proceedings. The said application was dismissed.



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Challenging the same, the petitioner has filed the above appeal and seeks leave of this Court to file the appeal as he is not a party to the proceedings before the Arbitral Tribunal.

3. Considering the fact that the petitioner's interest namely his right to the property has been attached without notice to him and without he being a party to the Arbitral agreement between the respondents 1 and 3 herein, leave is granted. However, with liberty to the respondents to revoke the leave, if so advised.

18.10.2022

Index : Yes/No
Speaking / Non-speaking order
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