

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 03RD DAY OF JANUARY 2022

THE HON'BLE MR. JUSTICE N. SENTHILKUMAR RAMAMOORTHY

Arb.Appln.No. 368 of 2021

in

A.No. 3445 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 M/s.
Jinkushal Construction Company
Arising under Loan Agreement
No.XVFPBLA00001707856 Dated
30.06.2016.

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
(in both applications)

-Vs-

M/s. Jinkushal Construction Company
Prop. Mr.Parasmal Sonraj Jain
Street – 04, Deepak Nagar,
Durg.
Chhattisgarh – 491 001.

... Respondent
(in both applications)

Arbitration Application praying that this Hon'ble Court be pleased to permit the applicant to file necessary application before the jurisdictional Court in accordance with law for sale of the attached property which is morefully described in the schedule of the Judges Summons.

This Arbitration Application coming on this day before this court for hearing in the presence of Mr.D.Pradeek Kumar, Advocate for the Applicant herein and upon reading the Judges Summon and affidavit of S.Sivasubramanian, filed in Arb.Appln.No. 368 of 2021 and the order dated 22/08/2019 made in A.No. 3445 of 2019, and this Court, having observed that it is not necessary for the applicant to approach this Court for any futher orders in relation to the attachment of the property, indeed since the award is said to be enforceable, in case the applicant intends to execute the award dated 11.02.2019, the appropriate course of action is to institute proceedings for execution before the jurisdictional Court, and

it is ordered as follows :-

1. That the applicant herein, shall be at liberty to institute or prosecute an application for sale of the attached property by way of execution proceedings before the jurisdictional Court.

2. That there shall be no order as to costs.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH
BHANDARI, ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS
AFORESAID, THIS THE 03RD DAY OF JANUARY 2022.

Sd/

ASSISTANT REGISTRAR (Comm Cases)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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ED
06.01.2022

Arb.Appln.No. 368 of 2021
in
A.No. 3445 of 2019

ORDER

DATED: 03.01.2022

THE HON'BLE MR. JUSTICE
SENTHILKUMAR RAMAMOORTHY

FOR APPROVAL : 07/01/2022

APPROVED ON : 10/01/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 03RD DAY OF JANUARY 2022

THE HON'BLE MR. JUSTICE N. SENTHILKUMAR RAMAMOORTHY

Arb.Appln.No. 368 of 2021

in

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Street – 04, Deepak Nagar,
Durg.
Chhattisgarh – 491 001.

... Respondent
(in both applications)

Arbitration Application praying that this Hon'ble Court be pleased to permit the applicant to file necessary application before the jurisdictional Court in accordance with law for sale of the attached property which is morefully described in the schedule of the Judges Summons.

This Arbitration Application coming on this day before this court for hearing, **the court made the following order:-**

This application is filed by the lender seeking permission to file an application before the jurisdictional Court for sale of the property, which was attached pursuant to the order dated 22.08.2019 of this Court in A.No.3445 of 2019.

2. The applicant/lender had initiated arbitral proceedings against the respondent. Such proceedings culminated in the arbitral award dated 11.02.2019. Subsequent thereto, the applicant filed Application No.3445 of 2019 before this Court for a direction to the respondent to furnish security for a sum of Rs.22,93,166/-, failing which for an attachment of the immovable property described in the schedule to the Judge's summons thereto. By order dated 22.08.2019, the said application was closed after passing an order of attachment of the relevant property. The present application is filed in view of the order passed by the District Judge in execution proceedings instituted by the applicant. By such order, the

District Judge adverted to the fact that the order of attachment dated 22.08.2019 was until further orders of this Court as per paragraph No.1 of the said order. On such basis, the District Judge directed that further orders of this Court should be awaited. The present application is filed for such purpose.

3. On perusal of the order dated 22.08.2019, it is evident that Application No.3445 of 2019 was closed by this Court. Consequently, it is not necessary for the applicant to approach this Court for any further orders in relation to the attachment of the property. Indeed, since the award is said to be enforceable, in case the applicant intends to execute the award dated 11.02.2019, the appropriate course of action is to institute proceedings for execution before the jurisdictional court.

4. Accordingly, Arbitration Application No.368 of 2021 is disposed of by leaving it open to the applicant herein to institute or prosecute an application for sale of the attached property by way of execution proceedings before the jurisdictional court. There shall be no order as to costs.

Sd./- S.K.R.J.,
03.01.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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