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Arb.Appln.No.121 of 2024
in
A.No.6494 of 2015

C.SARAVANAN, J.

The learned counsel for the applicant, the learned counsel for the first respondent and the learned counsel for the third party purchaser are present.

2. This application has been filed to raise order of attachment passed on 12.08.2016 in A.No.6494 of 2015 filed by the first respondent, seeking to attach the property under the assumption that the property still belongs to the second respondent.

3. The learned counsel for the applicant would submit that the applicant had purchased the property as early as 27.01.2016 by a registered Sale Deed registered as Doc.No.212/2016.

4. It is submitted that the applicant was not made a party to the aforesaid proceedings. In any event, it is submitted that the dispute is between the respondents herein. It is further submitted that the first

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respondent appears to have paid some amount to the second respondent, who has committed default.

5. The learned counsel for the applicant would submit that the second respondent has also subsequently purchased the property for a sum of Rs.41,00,000/- on 04.04.2019 out of the sale proceeds of the property. However, the second respondent has paid the amount due to the first respondent.

6. It is therefore submitted that continuance of the Order of Attachment against the applicant is unwarranted as the applicant is the *bona fide* purchaser of the property on 27.01.2016.

7. I have considered the arguments of the learned counsel for the applicant.

8. Both the respondents seek time to file counter affidavit.

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9. The report filed before this Court indicate that the applicant has purchased the property on 27.01.2016 whereas, the Order of Attachment was made only on 12.08.2016 because the second respondent failed to appear before the Court for enquiry in A.No.6494 of 2015.

10. I see no impediment in allowing this application for raising Order of Attachment. However, liberty is given to the first respondent to proceed against the second respondent and his wife against the property, which is said to have been purchased by the second respondent on 04.04.2019.

11. With the above liberty, this Arbitration Application stands allowed.

12. Registry is directed to sent suitable intimation to the Jurisdictional Sub-Registrar regarding raising of Order of Attachment through concerned Jurisdictional Civil Court.

18.03.2024

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