



C.M.A.No.2003 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.2003 of 2023

and

C.M.P.No.19458 of 2023

1.M.Ranganna Gounder
2.M.Thangavel
3.M.Varadharaj
4.Velusamy.C.M.
5.P.Saravanan
6.M.Mageshwari
7.M.Kumar
8.R.Saraswathi
9.S.Dhanabalan

...Appellant

Vs

1.Sundaram Finance Limited,
Rep by its Assistant General Manager (Legal),
21, Patullos Road,
Chennai 600 002.

2.S.M.Balakrishnan



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3.N.Marappan.

... Respondents

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Prayer: Civil Miscellaneous Appeal filed under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996, to set aside the order of interim attachment dated 28.11.2022 passed by the Sole Arbitrator in I.A.No.659 of 2022 in ARB Case No.PR/SF/200/2022 in Contract No.M027100472.

For Appellant : Mr.MA.P.Thangavel

For Respondent : Mr.M.Arunachalam for R1
No appearance for R2 & R3

JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the interim order passed by the learned Arbitrator dated 28.11.2022.

2. The learned counsel for the appellant would submit that the 2nd respondent had availed loan from the 1st respondent, wherein the 3rd respondent stood as a guarantor. However, they had failed to re-pay the said loan, due to which, the learned Arbitrator had passed the impugned attachment order dated 28.11.2022 whereby, he had attached the scheduled mentioned property, which



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are enclosed with the impugned order.

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3. Further, he would submit that the aforesaid subject properties, which were attached by the learned Arbitrator, are not belong to the 3rd respondent and the appellants are the owner of those properties. However, under the misconception and based on the the particulars of the properties provided by the 1st respondent, as if the properties were belong to 3rd respondent, the learned Arbitrator had passed the impugned attachment order. Hence, the present appeal.

4. The learned counsel appearing for the 1st respondent would fairly submit that they had collected several details from various sources with regard to the entire schedule mentioned properties. Subsequent to the said verification, it is clear that those properties did not belong to the 3rd respondent and the appellants are the owner of those properties. Hence, he confirmed the aforesaid submission made by the learned counsel for the appellants and requested this Court to pass appropriate orders.



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5. Heard the learned counsel for the appellants and the respondents and also perused the materials available on record.

6. In the present case, it appears that the learned Arbitrator had passed an attachment order, attaching the schedule mentioned properties, under the misconception as if those properties were belong to the 3rd respondent. However, the fact remains that those properties are not belongs to the 3rd respondent and the appellants are the owner of those properties. The said aspect was also confirmed by the learned counsel for the 1st respondent.

7. Therefore, this Court is of the considered view that the impugned attachment order is liable to be set aside. Accordingly, the attachment order dated 28.11.2022 is set aside.

8. At this juncture, the learned counsel for the appellants would request this Court to direct the concerned Sub-Registrar to remove the attachment of those properties.



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9. Accordingly, the concerned Sub-Registrar is directed to remove the attachment of those properties, upon production of a copy of this order.

10. In the result, this Civil Miscellaneous Appeal is allowed. No cost.
Consequently, the connected miscellaneous petition is also closed.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa



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KRISHNAN RAMASAMY,J.

nsa

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