



Arb.Appln.No.476 of 2024

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K. KUMARESH BABU, J.

This application has been filed to direct the respondents to file an affidavit disclosing the details of the Flats constructed as of now and the number of Flats, sold, agreed to be sold and mortgaged etc., in order to ascertain about the availability of the security to the petitioner as per the orders of this Court and in terms of the undertaking affidavit, relating to the schedule of property mentioned in the judges summons.

2. Even though, a counsel undertook to file vakalat on behalf of the respondent and sought time to file counter by today, the cause list indicates that vakalat has not been filed on behalf of the respondents.

3. The learned counsel for the applicant would submit that a Memorandum of Understanding was entered into between the 2nd respondent on 04.10.2014 and pursuant to the Memorandum of Understanding, the applicant had processed aggregating the lands for the benefit of the 2nd respondent. A renegotiated terms was agreed upon between the petitioner and



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the 2nd respondent and the new Memorandum of Understanding was signed on

19.08.2015. In spite of the applicant performing his part of obligation in performing the Memorandum of Understanding the respondents were delaying the performance on the part of obligation on various other incidental proceedings were also initiated as against the 2nd respondent. Hence, he had taken out the present application to safeguard his interest, pursuant to the Memorandum of Understanding dated 19.08.2015.

4. He also brought to the knowledge of this Court to an earlier injunction order that had been granted against the respondents in dealing with the 20 Flats till the final outcome of the Arbitral proceedings. Originally in OP.No.816 of 2018, this Court was pleased to constitute an Arbitral Tribunal and based upon the said order, the Arbitral proceedings were commenced. However, the respondents had filed a SLP(C).No.6279 of 2019 was filed before the Hon'ble Apex Court and withdrawn the same with liberty to file Review Petition. Thereafter, Review Petition No.16 of 2021 was filed before this Court and the same was dismissed on 16.02.2022. Challenging the said order of dismissal, the respondent once again filed SLP.(Civil).Nos.6703 of 2022 and 8320 of 2022 before the Hon'ble Apex Court and the same is



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pending and thereby, there is no progress in the Arbitration proceedings.

Therefore, the learned counsel prays for issuing a direction to the respondents to file an affidavit disclosing the details as sought for.

5. Heard the learned counsel for the applicant and perused the materials available on record.

6. It can be seen that there is an order of injunction as against the respondents from transferring or encumbering 20 Flats till the final outcome of the Arbitral proceedings before the Arbitrator.

7. In spite of notice having been received by the respondents and counsel had undertaken to file vakalat, whereas the Registry had indicated that no vakalat had been filed on behalf of the respondents which would only conclusively prove that the respondent was aware of the present proceedings. Since, the respondents had not shown any interest in contesting the said application, which would only draw me to a conclusion that the respondents is not inclined to contest the application.



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8. Having satisfied with the submissions so made by the applicant, I am of the view that no prejudice would be caused to the respondents, if a direction is issued to the respondents to disclose the details as prayed for in the judges summons.

9. This Court directs the respondents to file an affidavit disclosing the details of Flats constructed as of now and the number of Flats, sold, agreed to be sold and mortgaged etc., mentioned in the judges summons property within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above direction, this application is allowed.

10.09.2024

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