



Arb.Appln.No.651 of 2023

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C.SARAVANAN, J.

Notice on both the respondents have been served. Despite the same, the respondents have not come forward to enter appearance either in person or through their counsel.

2. This Arbitration Application has been filed by the applicant under Section 9 of the Arbitration and Conciliation Act, 1996 for granting an order prohibiting the second respondent garnishee from making payment to the first respondent for a sum of Rs.1,03,76,985/-.

3. This application has been filed by the applicant before taking steps for executing the Award passed by the Arbitral Tribunal on 17.03.2023 under Section 36 of the Arbitration and Conciliation Act, 1996. The dispute pertains to two supplementary loans obtained by the first respondent on 10.9.2019 and 22.10.2020 and 02.11.2019 and 22.10.2020. It appears that the first respondent has committed default



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in repaying the loan and therefore the applicant had issued a loan recall notice dated 21.06.2022 and 01.09.2022. The hypothecated assets after their repossession were sold pursuant to the order of the Arbitral Tribunal on 04.10.2022. A sum of Rs.1,57,00,000/- is said to have been received. At the time of institution of the arbitral proceedings, the first respondent was in arrears of Rs.2,51,09,584/- i.e, Rs.1,94,93,128/- in respect of first Loan Account No.107431 and Rs.56,16,456/- in respect of Loan Account No.139729 together with interest at 36% p.a., from 12.09.2022.

4. The arbitral proceedings was contested by the first respondent. The arbitral Tribunal took note of the amounts recovered from sale of the assets hypothecated pursuant to order dated 04.10.2022 for a sum of Rs.1,57,00,000/- and arrived at the balance amount of Rs.98,64,898/-. The applicant consequently amended particulars of claim dated 27.02.2023 in respect of both the loans to Rs.42,48,442/- and Rs.59,71,198/- and in all for a sum of Rs.1,02,19,640/-.



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5. The learned counsel for the applicant submits that the Award passed by the learned Arbitrator on 17.03.2023 has not been challenged by the respondents under Section 34 of the Arbitration and Conciliation Act, 1996. Therefore, he further submits that Court may be pleased to pass suitable orders by prohibiting the second respondent from transferring any amount lying in the accounts maintained by the first respondent of the second respondent.

6. Having considered the arguments advanced by the learned counsel for the applicant and having perused the documents filed by the applicant in respect of the above application, this Arbitration Application is ordered by directing the second respondent to not to transfer any amount lying with it in the the account of the first respondent upto sum of Rs.1,03,76,985/- for a period of six weeks from today. The applicant is directed to move suitable application before Execution Court for further orders to both protect its right and for enforcing the Award passed by the learned Arbitrator on 17.03.2023.



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7. This Arbitration Application stands allowed with the above liberty.

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