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Arb Appln No. 713 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

Arb Appln No.713 of 2025

in

A.No.1412 of 2018

1. Rajagopal,
S/o.Markandeyan, No.6/122, Mela
Street, Krishnapuram Musiri,
Mavilpatti Post, Trichy District.

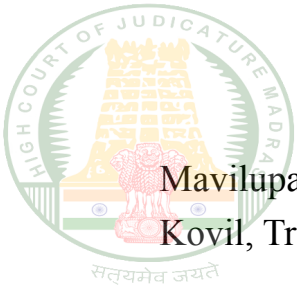
Applicant(s)

Vs

1. Ms Chola mandalam Investment and
Finance Company Ltd,
Dare House, No.2, N.S.C.Bose Road,
Parrys, Chennai 600 001.
rep. by its Authorised Signatory.

2.Kavitha.K,
No.6/124, Melatheru, Krishnapuram,
Mavilupatti, Musiri,
Near Angalamman Kovil, Trichy.

3.Kumar,
No.6/124, Melatheru, Krishnapuram,



Mavilupatti, Musiri, Near Angalamman
Kovil, Trichy.

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Respondent(s)

PRAYER

This application has been filed to raise the order of attachment passed in A.No.1412 of 2018 dated 07/08/2019.

For Appellant(s): Mr.M.Sudhan

For Respondent(s): Mr.Santhosh Nagarajan for R1

ORDER

This application has been filed to raise the order of attachment passed in A.No.1412 of 2018 dated 07.08.2019.

2. Heard Mr.Santhosh Nagarajan, learned counsel appearing on behalf of the first respondent. The second and third respondents have been served with notice but there is no appearance either in person or through their counsel.

3.The main ground that was raised by the learned counsel for the



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petitioner is that he is in possession and enjoyment of the property in S.No.486/7. The vendor of the petitioner had executed a registered deed of settlement dated 18.07.2013 in favour of his son, who is the third respondent and instead of mentioning the survey number as 486/2, by oversight, it was mentioned as 486/7. The applicant had purchased the property by virtue of a registered sale deed dated 07.11.2005. In fact, after the order of attachment was passed by this Court, notice was affixed only in S.No.486/2. Therefore, it is contended that there is a mistake in the identity of the property and as a result, the petitioner, who is the owner of the property in S.No.486/7 is not able to deal with his property.

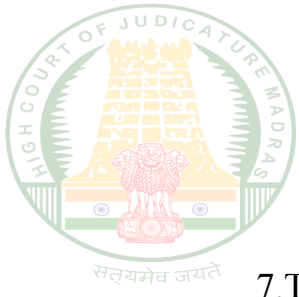
4.The second and third respondents had taken a vehicle loan from the first respondent and it was not repaid back. Hence, the first respondent had initiated proceedings for recovery of the amount and in the said process, the first respondent filed an application under Section 9 of the Arbitration and Conciliation Act, 1996 and pursuant to the same, the property was attached.



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5. The order of attachment was passed by this Court based on the settlement deed that was executed on 18.07.2013, wherein, the Survey number has been mentioned as 486/7. What has been purchased by the petitioner in the year 2005 is old S.No.390/5 measuring an extent of 875 sq.feet for which the new survey number is traced by the petitioner as S.No.486/7. If the property has been wrongly described in the settlement deed, either the concerned parties must seek for rectification or it will always be left open to the petitioner to approach the competent civil Court and seek for the appropriate remedy.

6. It is not be appropriate for this Court while exercising its jurisdiction under Section 9 of the Act to deal with the dispute with respect to the identity of the property. The order of attachment was passed based on the documents relied upon by the third respondent. Therefore, apart from those documents, nothing else can be considered by this Court. Liberty is granted to the petitioner to work out his remedy in the manner known to law.



7.This Application is disposed of, in the above terms.

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

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N.ANAND VENKATESH, J.
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