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OA No. 578 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-09-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

OA No. 578 of 2025

M/s SMFG India Credit Company
Limited Represented by its Authorized
Signatory Mr G Sankararaman
Having its Registered Office at
Commerzone IT Park Tower B 1st
Floor No 111 Mount Poonamallee Road
Porur Chennai 600116 Tamil Nadu

Applicant(s)

Vs

Ayyappan P
2nd Floor, No.41 BBC Home, A Block
BBC Home South Boag Road Bus
Stop, Chennai, Tamilnadu 600 017.

Respondent(s)

PRAYER

To pass an order of Interim Injunction restraining the Respondent, or his men, agents or anybody acting on his authority to transfer, alienate, encumber or sell the property morefully described in the Schedule hereunder to any third party.



For Applicant(s): Ms.K.Indhumathi

ORDER

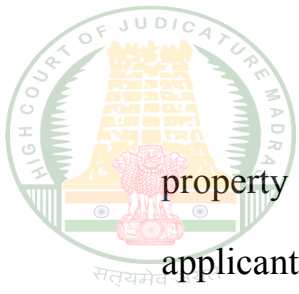
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This original application has been filed under Section 9 of the Arbitration and Conciliation Act, 1996 (for brevity referred to as “the Act”) seeking an order of interim injunction restraining the respondent from in any manner transferring, alienating, encumbering or selling the schedule mentioned property to any third party.

2. This Court heard the learned counsel for applicant and carefully perused the materials available on record.

3. The respondent availed finance facility from the applicant and entered into a loan cum hypothecation agreement dated 30.05.2022. A total sum of Rs.15,26,777/- was disbursed as loan amount, which was repayable in 24 monthly installments with interest, starting from 04.07.2022 and ending with 04.06.2024.

4. The specific case of the applicant is that the respondent paid only 17 installments and thereafter became a chronic defaulter. In view of the same, loan recall notice with the combination of a notice under Section 21 of the Act was issued on 16.11.2024. In spite of the same, the amounts were not settled. The applicant came to know that the respondent is keen on the disposal of the



property in collusion with third parties. It also came to the knowledge of the applicant that there is already a first charge created over the schedule property in favour of M/s ICICI Home Finance Limited. It is under these circumstances, the present application has been filed before this Court to safeguard the interest of the applicant over the schedule property, which has been identified by the applicant.

5. In the considered view of this Court, out of 24 installments, the respondent had paid only 17 installments and thereby became a chronic defaulter. Recall notice cum Section 21 notice was issued on 16.11.2024. Till date, no steps have been taken by the applicant to appoint an arbitrator.

6. While invoking Section 9, the Court must be satisfied that there is a manifest intention on the part of the applicant to arbitrate. Useful reference can be made to the judgment of the Apex Court in *Ashok Traders (Firm) v. Gurumukh Das Saluja (2004) 3 SCC 155*. The dispute between the applicant and the respondent is going on at least from the beginning of 2023 and the trigger notice was issued during November, 2024 and till date, no steps have been taken to appoint any arbitrator. That clearly shows that there is no manifest intention for the applicant to arbitrate. Therefore, this Court is not inclined to grant the relief as sought for by the applicant.

7. In the light of the above discussion, liberty is granted to the applicant



to take steps to appoint an arbitrator and thereafter, an application can be filed under Section 17 of the Act, which will be considered by the learned Arbitrator on its own merits and in accordance with law.

8. This original application is disposed of in the above terms.

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**N.ANAND
VENKATESH J.**

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