IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2025

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Original Application No.875 of 2025

Dhanraj N Kochar
S/o.Nemichand .... Applicant

Vs.

1.L.Dhandapani
S/o.Loganathan

2.D.Divya
D/o.L.Dhandapani .... Respondents

PRAYER

To grant an order of interim injunction restraining the respondents, their men, agents, servants or anybody claiming right either under or through them from in any manner alienating, encumbering or dealing with all that piece and parcel of agricultural lands situated at Thiruvidanthai Village, Thiruporur Taluk, Kancheepuram District, comprised in Survey No.266/3 (measuring an extent of 0.38 cents) S.No.266/2 (measuring an extent of 0.37 Cents) S.No.266/1 (measuring an exten of 0.44 cents) in all measuring an extent of Acre 1.19 cents, bearing Patta No.758, morefully described in the Judges Summons Schedule pending disposal of the arbitral proceedings proposed to be initiated by the Applicant.

For Applicant : Mr.Vaibhav R.Venkatesh
for Ms.A.Dipthi Munoth

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ORDER

This application has been filed for an interim injunction restraining the respondents from creating any further alienation/encumbrance of the subject property pending the arbitral proceedings proposed to be initiated by the applicant pursuant to the trigger notice issued by the applicant on 07.07.2025.

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

3. In the case in hand, the applicant entered into an agreement with the first respondent for purchasing contiguous lands spread over nearly 10 acres. Pursuant to the same, the entire sale consideration was paid by the applicant to the first respondent and nearly six sale deeds were executed during the period from July 2019 to November'2019. Apart from that, the first respondent also owned certain lands at Thiruporur Taluk, Kancheepuram District, in all measuring 1.19 acres. The first respondent had agreed to sell these lands also in favour of the applicant. A sale agreement dated 16.12.2019 was entered into between the parties. The total sale consideration was fixed as Rs.79,73,000/- and

out of that, the applicant had paid a sum of Rs.71,40,000/- to the first respondent. On 17.12.2019, the balance sale consideration of Rs.8,33,000/- was also paid by the applicant to the first respondent. The first respondent executed a sale deed dated 17.12.2019. The first respondent, however, requested the applicant for some time for registration of the sale deed. Believing the words of the first respondent, the applicant waited. A General Power of Attorney dated 17.12.2019 was executed by the first respondent in favour of the applicant registered as document No.17388 of 2019. It is also stated that the first respondent had agreed to hand over all the original title documents and the entire sale consideration was received and thus, the applicant had performed his part of contract.

4. The applicant received a letter dated 16.12.2020 from the first respondent requesting the applicant not to register the sale deed or alienate the property stating that there is some dispute and it will be resolved shortly. Thereafter, the first respondent issued a legal notice dated 10.10.2023 to the applicant and his son cancelling the sale agreement dated 16.12.2019 and the General Power of Attorney dated 17.12.2019. On enquiry, the applicant came to understand that the first

respondent was not intending to convey the property and he had fraudulently thereafter executed a settlement deed dated 13.10.2023 in favour of the second respondent, which was also registered as document No.25178 of 2023 on the file of SRO, Thiruporur.

5. Ultimately, the applicant got the impression that the first respondent is not inclined to sell the property and hence, the trigger notice dated 07.07.2025 under Section 21 of the Arbitration and Conciliation Act, 1996 [for brevity 'the Act'] was issued to the respondents. On receipt of the same, the respondents also issued a reply notice dated 14.07.2025. It is under these circumstances, the present application has been filed before this Court under Section 9 of the Act to restrain the respondents from creating any alienation or encumbrance since third party rights will be created and the applicant will be put to irreparable loss and hardship, more so, since the applicant had paid the entire sale consideration.

6. In the considered view of this Court, the applicant was aware of the intention of the first respondent when the first respondent proceeded to cancel the sale agreement and also the Power of Attorney

executed through letter dated 10.10.2023. Even thereafter, on 13.10.2023, the first respondent had executed the settlement deed in favour of the second respondent. Thus, the cause of action for the applicant had arisen even at that point of time. However, the trigger notice under Section 21 of the Act came to be issued on 07.07.2025.

7. It is true that while deciding the application under Section 9 of the Act, the issuance of the trigger notice under Section 21 of the Act is not a *sine qua non*. It is now too well settled that the Court has to necessarily apply its mind and ascertain as to whether there was manifest intention on the part of the applicant to arbitrate the matter. If this test is not satisfied, the Court should not entertain the application under Section 9 of the Act. Useful reference can be made to the judgment of the Apex Court in ***Ashok Traders v. Gurumukh Das Saluja [(2004) 3 SCC 155].*** Reference can also be made to the judgment of the Apex Court in ***Sundaram Finance Ltd. v. NEPC Indian Ltd. [(1999) 2 SCC 479].***

8. In view of the above, this Court holds that even though the dispute had substantially arisen as early as in October'2023, no steps were taken by the applicant to proceed further to refer the dispute to the

N.ANAND VENKATESH, J.

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Arbitral Tribunal. Thus, the manifest intention to arbitrate is missing in this case. The trigger notice under Section 21 of the Act was issued only on 07.07.2025. Therefore, this Court is not inclined to exercise its jurisdiction under Section 9 of the Act. It goes without saying that since the applicant has already issued the trigger notice dated 07.07.2025, it is left open to the applicant to proceed further to refer the matter to the Arbitral Tribunal and also move an application under Section 17 of the Act, which will be dealt with by the Tribunal on its own merits and in accordance with law. Any observations made in this application will not have any bearing when the Tribunal deals with the interim application under Section 17 of the Act.

This application is disposed of in the above terms.

03.09.2025

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
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