



WEB COPY

CRP No. 3919 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-08-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

**CRP No. 3919 of 2026 and
CMP No.17139 of 2026**

M/s Shriram Finance Ltd
Rep.by its Power Agent Mr.P.Senthil Kumar,
Administrative office at Sri towers,
Plot No.14A, South Phase,Industrial Estate,
Gundy, Chennai-600 032.

Having their Branch Office,
at No.1770, Artsan Tower, 2nd Floor, Trichy
Road, Near Ramanathapuram Signal,
Coimbatore- 641045.

..Petitioner(s)

Vs

1. Senthil Kumar
D.No.107-A Senguptha Street,
Ramngar, Coimbatore- 641 009.
2. Mr.Arumugasamy,
D.No.107-A Senguptha Street,
Ramngar, Coimbatore- 641 009.
3. Mr.Palanisamy,
D.No.107-A Senguptha Street,
Ramngar, Landmark- Hotel Vijay
Park in Anupparpalaym, Coimbatore- 641 009.

..Respondent(s)

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 26.11.2025 in E.P.No.111 of 2024 on the file of the learned Judge, Commercial Court (District Judge Cader), Coimbatore, and consequently direct the executing court to proceed with the execution of the arbitral award in accordance with law.



For Petitioner(s):

Ms. V. Pushpa

For Respondent(s):

No appearance for the respondents.

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ORDER

Despite service of notice on the respondents, the respondents neither entered appearance through counsel nor in person.

2. Heard the learned counsel for the petitioner and I have perused the materials on record.

3. The petitioner is a successful award holder in the arbitration proceedings under Section 34 of the Arbitration and Conciliation Act in A.P.No.1 of 2019 before the Commercial Court at Coimbatore. Subsequently, he filed an execution petition in E.P.No.111 of 2024 to execute the arbitration award and the same was dismissed by the executing court only on the ground that the appointment of Arbitrator was not in terms of the Arbitration and Conciliation Act. The learned counsel for the petitioner states that the executing court was clearly in error in going into the aspect of unilateral appointment of Arbitrator or otherwise, when the award had not been set aside or recalled under Section 34 of Arbitration and Conciliation Act. He would therefore state that the only avenue to challenge the award was under Section 34 and in the present case, the respondent had in fact challenged the award by



filing OP under Section 34 of Arbitration and Conciliation Act, which also came to be dismissed by the District Court, Coimbatore in A.O.P.No.113 of 2023. The learned counsel for the petitioner further states that despite the above facts having been brought to the notice of the executing court, the executing court had proceeded to dismiss the execution petition on the ground of unilateral appointment of arbitrator, applying the law laid down by the Hon'ble Supreme Court in *Perkins Eastman Architects DPC Vs. HSCC (India) Ltd.* reported in *AiR 2020 SC 59*.

4. The executing court cannot go behind the award, especially, when the award was challenged in a manner known to law under Section 34 of the Arbitration and Conciliation Act, unsuccessfully. The executing court could not have put unilateral appointment of the Arbitrator, even assuming there has been such unilateral appointment in the instant case against the decree holder, in execution proceedings. The proper forum to have set aside such unilateral appointment of the Arbitrator was only by way of filing application under Section 34 of the Arbitration and Conciliation Act. In the present case, as already discussed herein above, the said attempt by the respondent/judgment debtor was also unsuccessful. The executing court was therefore clearly in error in dismissing the execution petition.



5. The Honble Supreme Court in *Bhawarlal Bhandari Vs. Universal heavy mechanical Lifting Enterprises, reported in (1999) 1 SCC 558*, described the role of the executing court in executing a award passed under the Arbitration and Conciliation Act. In fact, reliance is placed on the order of this court in *M/s Sundaram Finance limited Vs. S.M.Thangaraj, reported in (2025) 3 CTC 73* as well as the order passed by me n *M/s Shriram Finance Ltd. Vs. Prabu and another in CRP No.3760 of 2025 dated 09.02.2026*, where, a Section 47 application was filed and allowed by the executing court on the ground that the Award was passed subsequent to the unilateral appointment of the Arbitrator.

6. In the facts of the present case, the respondents have admittedly challenged the unilateral appointment of Arbitrator under Section 34 and had lost. Therefore, the executing court should have proceeded with the E.P. and ensured that the award is executed, instead of proceeding to dismiss the execution petition on the ground of unilateral appointment of the Arbitrator.

7. For the foregoing reasons, I am inclined to set aside the order of the executing court, dismissing the E.P.No.111 of 2024 on the file of Commercial Court, Coimbatore.



8. Accordingly, this civil revision petition is allowed and the impugned order passed in E.P.No.111 of 2024 is set aside. The District Judge, Commercial Court, Coimbatore shall proceed with E.P.No.111 of 2024 and dispose of the same, within a period of 4 months from the date of receipt of copy of the order. There shall be no order as to costs. Connected miscellaneous petition is closed.

06-08-2026

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

MST

To

The District Judge, Commercial Court,
Coimbatore.



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P.B.BALAJI, J.

MST

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