

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4516 of 2015 &

M.P.No.1 of 2015

D.Mohan

... Petitioner

v.

1.M/s.Shriram City Union Finance Limited
Rep. By their Authorised Representative
Having their office at
No.123, Angappa Naicken Street
Chennai – 600 001.

2.C.Sudha

3.A.Sennthamarai Kannan

4.E.Padmavathy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 12.08.2015 made in E.A.No.5312 of 2014 in E.P.No.2259 of 2013 on the file of IX Assistant City Civil Court, Chennai.

For Petitioner : Mr.PG.Thiyagu

ORDER

Challenging the fair and final order passed in E.A.No.5312 of 2014 in E.P.No.2259 of 2013 on the file of IX Assistant Judge, City Civil Court, Chennai, the 3rd judgment debtor has filed the above Civil Revision Petition.

2. Pursuant to the award passed in the Arbitration Proceeding in A.C.P.No.8 of 2011, the 1st respondent-decree holder has filed an Execution Petition in E.P.No. 2259 of 2013 to execute the decree. In the said Execution Petition, the 3rd party-judgment debtor filed an application under section 47 of CPC in E.A.No.5312 of 2013 to dismiss the Execution Petition No.2259 of 2013 as devoid of merits.

3. Admittedly, the revision petitioner has not challenged the award passed in A.C.P.No.8 of 2011, therefore, the award passed by the Arbitrator has become final. Instead of filing an appeal as against the award passed in A.C.P.No.8 of 2011, the 3rd judgment debtor has filed the present application under section 47 of CPC raising various issues, challenging the award passed in A.C.P.No.8 of 2011. Only to circumvent the filing of an appeal, the present application has been filed under section 47 of CPC. The Execution court has rightly come to the conclusion that the application filed under section 47 of CPC is devoid of merits.

4. In these circumstances, I do not find any reason to interfere with the order passed by the Execution Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

07.12.2015

Rj

To

The IX Assistant Judge,
City Civil Court,
Chennai,

M. DURAISWAMY,J.,

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