

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**CRP(NPD)No.1371 of 2010
and
M.P.Nos.1 and 2 of 2010**

1.P.T.G.Srinivasan

2.P.Tamilarasan

3.R.Kabilan
Petitioners

Vs.

1.Vallimananalan
The Foreman Jayapriya Chit Funds
(P) Ltd., Neyveli-2,
Neyveli, Panrutti Taluk,
Cuddalore District.

2.Shanmugam

.. Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the order dated 18.12.2009 passed in E.P.No.179 of 2009 in A.R.No.328 of 2009, pending on the file of the learned Subordinate Judge, Neyveli.

For Petitioners : Mr.K.A.Ramachandran

For Respondents : Mr.V.Manisekaran (for R1)

No Appearance (for R2)

ORDER

The petitioners have filed this Civil Revision Petition to set aside order dated 18.12.2009 passed in E.P.No.179 of 2009 in A.R.No.328 of 2009 pending on the file of the Learned Subordinate Judge at Neyveli.

2.The sum and substance of the revision petitioners case is that the 2nd respondent herein joined the chit group run by the 1st respondent herein and he became the successful bidder and prized the chit. The petitioners herein have stood as sureties for the due repayment of the future subscriptions in the chit amount by the 2nd respondent herein as they are government servants. Since the 2nd respondent herein defaulted in monthly payment and therefore the 1st respondent herein filed an application before the arbitrator of chits and the same was numbered as A.R.No.328 of 2009. After enquiry, the arbitrator passed an award against the 2nd respondent herein and petitioners herein on 21.04.2009 for a sum of Rs.1,34,641/-.

3. Since the revision petitioners and the 2nd respondent herein failed to pay the award amount to the 1st respondent herein, an execution petition in E.P.No.179 of 2009 was filed before the Sub-Court, Neyveli, against the 2nd respondent herein, revision petitioners and the garnishee of the revision petitioners. In the above said execution petition, the revision petitioners entered appearance through their counsel. The petitioners were under the impression that the 2nd respondent herein being the principal debtor would pay the award amount to the 1st respondent herein. Since the 2nd respondent herein failed to pay the amount, the revision petitioners sought for time to pay some amount. But the Learned Subordinate Judge without giving sufficient opportunity to the revision petitioners ordered to attach the salary of the petitioners herein by order dated 18.12.2009. The said order is under challenge in this Civil Revision Petition.

4. I heard Mr.K.A.Ramachandran, learned counsel appearing for the revision petitioners and Mr.V.Manisekaran, learned counsel appearing for the 1st respondent and perused the entire records. There is no representation for the 2nd respondent.

5. In this case, admittedly the revision petitioners are only stood as sureties for the 2nd respondent herein who is the principal debtor. In any event, the persons stood as sureties for the borrower are responsible to pay the default amount to the chit fund, if the borrower/principal debtor failed to pay the loan amount; the sureties are liable to pay the default amount incurred by the principal debtor. Therefore the revision petitioners being sureties are also equally liable to satisfy the decree amount to 1st respondent herein.

6. The perusal of records in this Civil Revision Petition disclose that at the time of admission of this Civil Revision Petition, this Court by order dated 15.04.2010 made in M.P.No.1 of 2010 granted conditional stay, with a direction to the revision petitioners to deposit 1/4th of the decree amount before the Court below. It is seen from the records that the revision petitioners have complied with the conditional order passed by this Court. Further, the 1st respondent herein took out an application in M.P.No.2 of 2010 to permit him to withdraw the amount deposited by the revision petitioners and the same was also allowed by this Court by order dated 11.03.2011.

7. In view of the above facts, I am of the view that one more

opportunity shall be given to the revision petitioners to put forth their case before the execution Court. Hence in the interest of justice and to secure the ends of justice, this Civil Revision Petition is liable to be allowed and accordingly it is allowed.

8.In the result:

(a) this Civil Revision Petition is allowed by setting aside the order passed in E.P.No.179 of 2009 in A.R.No.328 of 2009, dated 18.12.2009, on the file of the learned Subordinate Judge, Neyveli.

(b) the E.P. Court is directed to dispose of E.P.No.179 of 2009 within a period of two months from the date of receipt of a copy of this order, by giving opportunity to both parties. Both the parties are hereby directed to co-operate for early disposal of the above E.P. No costs. Consequently, connected miscellaneous petitions are closed.

Note:Issue order copy on 13.09.2017
Internet:Yes
Index:Yes
vs

To
The Subordinate Judge, Neyveli.

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12.08.2016

M.V.MURALIDARAN, J.

VS



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