

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**CRP(NPD)No.3182 of 2012
and
M.P.No.1 of 2012**

1.Muthazhagan

2.Cezhian

.. Petitioners

Vs.

Sree Jayapriya Chit Funds Limited,
Neyveli,
Rep. by its Foreman
Neyveli,
Cuddalore District.

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the petition and order dated 09.07.2012 passed by the learned Principal Sub-Judge, Vridhachalam in E.P.No.64 of 2008 in A.R.No.739 of 2007.

For Petitioners : Mr.B.Manimaran

For Respondent : Mr.V.Manisekaran

ORDER

The case of the revision petitioner is that the respondent herein as plaintiff filed Arbitration Case No.739 of 2007 against the revision petitioners and they are the respondents 2 and 3 in the above said Arbitration case. The respondent herein is a private chit fund limited filed Arbitration case against the revision petitioners and others, for recovery of amount of Rs.1,08,000/-towards principal and interest of Rs.31,449/-, totally Rs.1,39,449/-. The above said Arbitration case was decreed on 12.10.2012.

2.The respondent herein in order to realize the award amount, filed execution petition in E.P.No.64 of 2008 before the Principal Sub-Judge, Virudhachalam, seeking to attach the salary of the revision petitioners. According to the revision petitioners, they have been regularly appeared before the Court and paid amount in every month. When the above said execution petition was posted to 09.07.2012, the 1st petitioner herein on the way to Neivelly to attend the Court, his two wheeler got punctured. After repairing his two wheeler, the 1st petitioner herein meet his counsel and asked about the details of the case, he was informed that because of his non appearance, an ex-

parte order of attachment of salary of the revision petitioners was ordered.

3.The revision petitioner filed E.A.No. of 2011 to raise the ex-parte order of attachment passed against them on 09.07.2012. The said application was returned on the ground that the previous order dated 09.07.2012 was not complied with. The revision petitioners filed the ex-parte set aside application and to raise the order of attachment along with Rs.10,000/-. Since the Learned Principal Sub-Judge, has returned the E.A.No. of 2011 filed by the revision petitioners with an endorsement that conditional order passed on 09.07.2012 to be complied, the revision petitioner come up with the present civil revision petition by invoking the ex-ordinary jurisdiction of this Court under Article 227 of Constitution of India.

4.I have heard Mr.B.Manimaran, learned counsel appearing for the petitioners and Mr.V.Manisekaran, learned counsel appearing for the respondent and perused the records carefully.

5.The respondent herein got award in their favour to the tune of Rs.1,39,449/- along with interest at the rate of 24% per annum from

the date of petition till the date of realization. For realizing the award amount, the respondent herein filed execution petition for a sum of Rs.1,55,038/-. The revision petitioners have called absent and set ex-parte in execution petition and ex-parte order of attachment of the salary of the revision petitioners was ordered on 09.07.2012. When the execution petition was taken up for hearing before 09.07.2012, the Learned Judge ordered to pay substantial amount not less than Rs.50,000/- and on that date revision petitioners were absent and an ex-parte order of attachment of their salary was ordered.

6.Through the revision petitioner have filed application to raise the order of attachment on 12.07.2012, have not taken D.D on the same date. However, it is averred in the affidavit filed by the 1st petitioner herein stating that they are paying Rs.10,000/- to the decree holder. However, the Learned Judge returned the execution application on 01.08.2012 stating that previous order for payment of substantial amount of Rs.50,000/- was not complied with.

7.From the orders enclosed along with the execution petition, this Court would able to see that the revision petitioners have regularly made certain payments. Since the revision petitioners have made

payments, this Court is of the considered view that in order to give one more opportunity to the revision petitioners, this civil revision petition can be allowed by directing the revision petitioner to deposit 50% of the E.P. amount. On such deposit is being made by the revision petitioner the Learned Principal Sub-Judge, Virudhachalam is directed to raise the order of attachment passed on 09.07.2012.

8.In the result, this Civil Revision Petition is allowed on condition that the petitioners are directed to deposit 50% of the E.P. amount within a period of four weeks from the date of receipt of a copy of this order, failing which this Civil Revision Petition is automatically dismissed. It is further directed on payment of depositing the said amount, the trial Court to dispose the E.P. within a period of eight weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

02.08.2016

Note:Issue order copy on 11.04.2017.
Internet:Yes/No
Index:Yes/No.

vs

To

The Principal Sub-Judge,
Virudhachalam.

M.V.MURALIDARAN, J.

VS

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