



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

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CRP (MD).No. 1136 of 2016

M/s. Sundaram Finance Limited,
No.21, Patullos Road,
Chennai - 600 002

: Petitioner Petitioner/
Claimant

Vs.

1. John Amal Dhas
2. Mezhsilinjigila

: Respondents/Respondents/
Respondents

Prayer: This Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the Docket orders dated 26.02.2016 passed in un numbered EP of 2016 in Arb.O.P.No.107 of 2014 on the file of the Principal District Judge of Kanyakumari at Nagercoil.

For Petitioner

: Mr.S. Pon Senthilkumaran

For respondent

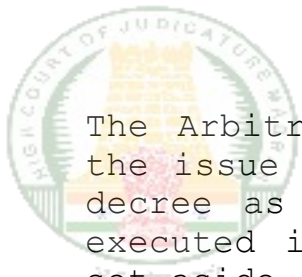
: No appearance

ORDER

These Civil Revision Petitions are filed to set aside the Docket order dated 26.02.2016 passed in un numbered EP of 2016 in Arb.O.P.No.107 of 2014 on the file of the Principal District Judge of Kanyakumari at Nagercoil.

2. The petitioner filed Execution Petition to execute the award of Arbitrator dated 24.11.2014 for attachment and sale of the properties belonging to the respondents. The said Execution Petition was returned on 27.01.2016 for certain defects and the same was represented after complying the defects. Again it was returned on 26.02.2016 on the ground that the Act itself repealed and not in force and therefore, Execution Petition is not maintainable. Against the said return, present Civil Revision Petition is filed.

3. The learned counsel appearing for the petitioner submitted that the learned Judge erred in returning the Execution Petition without properly appreciating the Section 2(1)(e) of the Arbitration and Conciliation Act, 1996. The learned Judge failed to appreciate that per Section 2(1)(e) of the Arbitration and Conciliation Act, only District Court has territorial jurisdiction to entertain the matter under Arbitration and Conciliation Act.



The Arbitrator have power under Section 28 of the Act to decide the issue referred to them and Award passed by an Arbitrator is a decree as contemplated in the Civil Procedure Code and can be executed in the Civil Court. Unless, the Award of arbitrator is set aside, Execution Court cannot decide the merits of the Award.

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4. This Court ordered notice to the respondents 1 and 2. Though the notice served on the respondents and their names were also printed in the cause list, they have not chosen to appear either in person or through their counsel.

5. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. From the records it is seen that the learned Judge failed to consider the Award passed by the arbitrator is executable as a decree passed by the Civil Court and as per Section 2(1)(e) of the Arbitration and Conciliation Act, 1996 District Court has power to entertain the Execution Petition filed to execute the award of arbitrator.

7. In the present case, the property sought to be attached and sold situate within the territorial jurisdiction of the learned Judge. Therefore, Docket order of the learned Judge dated 26.02.2016 is set aside and the Civil Revision Petition is allowed. No costs.

8. The petitioner is directed to represent the Execution Petition and on such representation, the learned Judge is directed to number the same, if it is otherwise in order and dispose of the same on merits and in accordance with law.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The Principal District Judge of Kanyakumari at Nagercoil.

+2cc to S.Ponsenthilkumaran,SR.597

+1cc to S.Ponsenthilkumaran,SR.337

CRP (MD).No. 1136 of 2016

03.01.2017

TRP

KK-SKN-08.02.2017-2P-5C