



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.496 of 2016 and
C.M.P.(MD)No.2148 of 2016

1. N.Sekar
2. A.K.Thangapandi
3. N.Parameshwaran ... Petitioners/Respondents 2 to 4/
Respondents 2 to 4

Vs.

1. M/s.Shri Ram Union Finance Limited,
D.K.S.Tower 2nd Floor,
Cumbum Road, Palanichettipatti,
Theni,
Rep. by its Manager ... 1st Respondent/
Petitioner-Award Holder/
Petitioner
2. B.Packiyaraj ... 2nd Respondent/1st Respondent/
1st Respondent
3. The District Elementary Educational Officer,
Theni, Theni District.
4. The Headmaster,
Jothi Vidhya Salai,
Pitchampatti, Aundipatty,
Theni District.
5. The Assistant Elementary Educational Officer,
Assistant Elementary Educational Office,
Aundipatty,
Theni District. ... Respondents/
Garnishee of petitioners

PRAYER : Civil Revision Petition is filed under Section 115 of C.P.C., to allow the above Civil Revision petition by setting aside the order dated 10.12.2015 passed in E.P.No.46 of 2013 in A.C.P.No.3 of 2010 on the file of the Principal District Court, Theni, Theni District.

For Petitioners : Mr.R.Vijayakumar,
for Mr.P.Sivachandran.



For R-1

: Mr.J.Barathan,
for M/s.T.R.Jeyapalam.

For R-3 to R-5

: Mrs.S.Srimathy,
Special Government Pleader.

For R-2

: No appearance.

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O R D E R

The Revision petitioners had guaranteed repayment of the loan availed by their principal borrower, namely, the second respondent herein. Since the borrower committed default, the first respondent finance Company initiated arbitral proceedings before the sole Arbitrator. The Arbitrator passed an award in favour of the first respondent which was put to execution. In the execution proceedings, attachment was ordered and deduction was ordered to be made from the salaries of the Revision petitioners herein. Questioning the aforesaid order passed against the garnishee, this Civil Revision petition has been taken out.

2. Heard the learned counsel on either side.

3. The finance Company/first respondent has filed an affidavit before this Court offering one time settlement. If the Revision petitioners pay a sum of Rs.3,25,000/- on or before 30.11.2018, the finance Company would be willing to close the entire accounts. If the Revision petitioners do not pay the entire amount before the said stipulated date, the finance Company would be entitled to proceed with E.P. and execute the award passed in their favour.

4. I am of the view that the aforesaid proposal is eminently reasonable. Therefore, the Revision petitioners are directed to pay the said amount of Rs.3,25,000/- (Rupees Three Lakhs and Twenty Five Thousand only) on or before 31.12.2018 towards full and final settlement. Till then the execution proceedings as well as the order passed therein will be put on hold. If the Revision petitioners fail to make the payment within the aforesaid date, the order passed in this Civil Revision petition will stand recalled and the Civil Revision petition will stand dismissed.

5. It is made clear that no circumstance, this Court will entertain an application for extension of time. It is seen that the Revision petitioners are only guarantors. After they liquidate the liability of the principal, it is open to the surety to proceed against the principal. This is the statutory mandate set out in Section 140 of the Indian Contract Act, 1872. Therefore, after the Revision petitioners satisfy the liability of the second respondent, the Revision petitioners are given liberty to proceed against the second respondent.



6. The Civil Revision petition stands disposed of, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

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/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Principal District Judge,
Theni, Theni District.

- 1 CC TO M/s.T.JEYAPALAM , ADVOCATE IN SR No.90702.
- + 1 CC TO Mr.P.SIVACHANDRAN , ADVOCATE IN SR No. 90908.
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