

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

**C.R.P.(NPD).No. 620 of 2019
and
C.M.P.No. 4148 of 2019**

1. Mr.G.Udhayakumar
S/o.S.G.Gurusamy
Senior Grade
Lecturer in Economics
VeerappanChatram
Erode - 638 004.

2. A.Reniprabha
W/o.Udayakumar
Senior Grade
Lecturer in Zoology
VeerappanChatram
Erode - 639 004.

... Petitioners

-Vs-

1. Margadarsi Chits Private Limited
Rep. by its Foreman K.Venkatesh,
No.7/54, 3rd Floor, Ideal Garden Complex,
Junction Main Road,
Salem - 4.

2. G.Thiyagarajan
3. V.K.Manohar
4. M.Ramdoss
5. S.R.Ashokraj
6. R.Vijayakumar

... Respondents

Prayer : Petition filed under Article 227 of the Constitution of India against the Order/Decree passed in E.A.No. 152 of 2017 in E.P.No. 139 of 2013 in Arb.No. 147 of 2007 on the file of the learned I Additional Subordinate Judge, Erode dated 14.12.2018.

For Petitioners : M/s.P.Padmashwari

For Respondents : Mr.D.Shivakumaran

ORDER

This Revision Petition has been filed against the fair and decretal order passed in E.A.No. 152/2017 in E.P.No. 139/2013 in Arb. No. 147 of 2007.

सत्यमेव जयते

2. Before the Execution Court, the Revision Petitioners/ Judgment Debtors had filed E.A.No. 152/2017 under Section 47 of the CPC, to determine the Award passed in Arb.No.147/2007. Since the said application has been rejected through the impugned order, the present Revision Petition has been filed.

3. Heard M/s. P.Padmashwari, learned counsel for the revision petitioners and Mr.D.Shivakumaran, learned counsel appearing for the respondents.

4. In the transaction between the Decree Holder and the Judgment Debtors, since there has been a default on the side of the judgment debtors, in returning the chit amount taken by them, an Arbitration OP has been filed, which culminated into an award in favour of the Chit Company/Respondent and against the Revision Petitioners/Judgment Debtors. In order to execute the same, the main E.P.No. 139 of 2013 was filed by the decree holder, where the Revision Petitioners/Judgment Debtors appeared and made some part payments of Rs.8,000/- on many hearings. After sometime, it seems that the present E.A.No. 152/2017 has been filed under Section 47 of CPC questioning the arbitration proceedings and the Award passed therein.

5. The learned Judge has rightly rejected the same stating that once the Revision Petitioners/Judgment Debtors appeared and made

payments for several hearings, they do not have any locus standi to question the arbitration Award.

6. As against the said order, this revision petition has been filed. During the course of hearing, it is submitted that the revision petitioners have paid some amounts, for which no receipt has been given by the decree holder. However, they agreed that they are due to the respondent company for an amount of Rs. 6,72,320/- and the interest is more than Rs. 5,50,000/- calculated at 24 % .

7. Though interest was calculated @ 24%, the revision petitioners had also stated that some payments have been received and acknowledgment to that effect from the Respondents/Decree Holder is available with the revision petitioners. This Court is unable to accept the said contention made by the learned counsel appearing for the revision petitioners. Since, it is an Award passed in Arbitration OP, therefore, E.P has been filed to execute the Award. The Revision Petitioners/Judgment Debtors wanted the dues to be paid on installment basis. After making some payment, questioning the Award in this revision, particularly after

paying some amount, without receiving any receipt. For any money transaction, without any receipt of acknowledgment, if any claim has been made that the amount has been paid, the same cannot be accepted by the Court of Law. The receipt of the money said to have been paid by the judgment debtor, has been denied by the decree holder. That being the actual position, when this Court subsequently asked the learned counsel for the revision petitioners that whether at least the said sum of Rs.6,73,000/- (Rupees Six Lakhs Seventy Three Thousand Only) can be paid now, on that ground the execution proceedings could be stayed, and the interest to be calculated by the decree holder at the rate of 24% can be decided later, the learned counsel for the revision petitioners expressed that the revision petitioners are not in a position to make any payment as of now.

8. When that being present state of affairs, this Court cannot show any indulgence in favour of the revision petitioners in this revision petition. This Court finds no need or necessity to interference with the impugned order passed by the Trial Court.

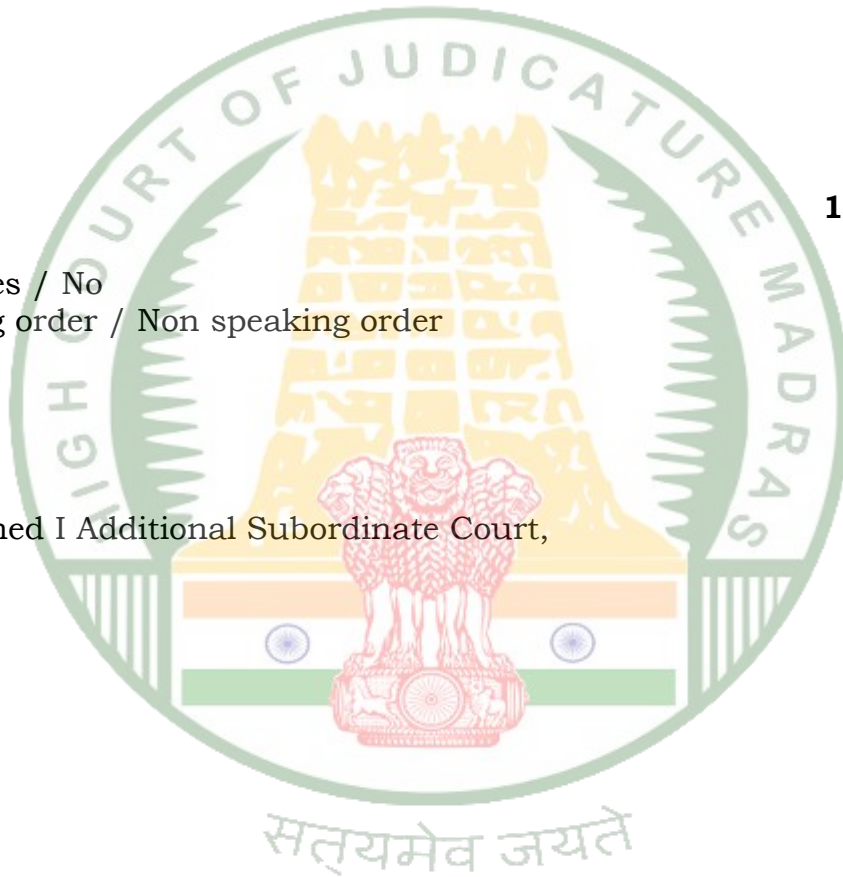
9. Hence, this Court feels that the revision petition deserves to be rejected. Accordingly it is dismissed. However, there shall be no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

18.11.2019

Index: Yes / No
Speaking order / Non speaking order
kmm

To

The learned I Additional Subordinate Court,
Erode



WEB COPY

C.R.P.(NPD).No. 620 of 2019
and
C.M.P.No. 4148 of 2019

R. SURESH KUMAR, J.

kmm



**C.R.P.(NPD).No. 620 of 2019
and
C.M.P.No. 4148 of 2019**

WEB COPY

18.11.2019