

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.01.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.R.P.(NPD).Nos.411 to 413 of 2013

and

M.P.Nos.1 to 1 of 2013

C.R.P.(NPD).No.411 of 2013

1.D.Prema
2.A.M.Rafi Ahamed
3.K.Kumar
4.V.Manimaran

...
Vs.

Petitioners

1.Jayapriya Chit Funds (P) Ltd.,
represented by Foreman,
T.Nagar, Chennai – 600 017.
2.S.Selvaraj
3.A.Yakoob (died)



Respondents

C.R.P.(NPD).No.412 of 2013

1.P.Annadurai
2.T.Kalaiselvan
3.R.Rajendran
4.S.Vedharaman
5.K.Kumar

...
Vs.

Petitioners

1.Jayapriya Chit Funds (P) Ltd.,
represented by Foreman,
T.Nagar, Chennai – 600 017.
2.S.Selvaraj

...

Respondents

C.R.P.(NPD).No.413 of 2013

1.K.Kumar
 2.P.Subramanian
 3.M.Malathi
 4.M.Mohan
 5.Manimaran
 6.Nagarajan
 7.N.K.Balaganesan

...
 Petitioners

Vs.

Jayapriya Chit Funds (P) Ltd.,
 represented by Foreman,
 T.Nagar, Chennai – 600 017.

...
 Respondent

Prayer :- The Civil Revision Petitions have been filed under Section 115 of the Civil Procedure Code against the Fair and Decretal orders dated 20.09.2012 passed in E.P.Nos.148, 149 & 150 of 2011 in A.R.1427, 1428 & 1429 of 2010 on the file of the I Additional Subordinate Court, Cuddalore.

For Petitioners in all CRPs : Mr.R.Gururaj

For Respondent
 No.1 in CRP Nos.411 &
 412/2013 & Sole
 respondent in CRP No.
 413/2013 : Mr.C.A.Anburaja

Respondent No.2 in CRP
 Nos.411 & 412/2013 : Served

Respondent No.3 in CRP
 No.411/2013 : Died Steps Due

COMMON ORDER

The instant revisions have been filed against the Fair and Decretal order dated 20.09.2012 passed in E.P.Nos.148, 149 & 150 of 2011 in A.R.1427, 1428 & 1429 of 2010 on the file of the I Additional Subordinate Court, Cuddalore.

Brief facts leading to the filing of the revisions:

2.The petitioners in the respective revisions are judgment debtors in E.P.Nos.148, 149 & 150 of 2011 respectively. The Execution Petitions were filed by the decree holder to execute the Arbitral awards dated 23.3.2011 passed in A.R.Nos.1427, 1428 & 1429 of 2010 by the District Registrar for Chit funds, Chennai. The Execution Petitions were filed seeking attachment of 1/3rd salary of each of the Judgement debtors. Counter affidavits were also filed by the judgment debtors in the respective Execution Petitions. The Execution Court by its order dated 20.09.2012 in E.P.Nos.148, 149 & 150 of 2011 in A.R.Nos.1427, 1428 & 1429 of 2010 allowed the Execution petitions and ordered attachment of the 1/3rd salary of the respective judgment debtors. Aggrieved by the order of attachment dated 20.09.2012, the instant revisions have been filed by all the Judgment Debtors excepting the first Judgment debtor in E.P. Nos. 148 & 149 of 2011.

Submissions of the learned counsels:

3.Heard Mr.R. Gururaj, learned counsel for the petitioners in all the Civil Revision Petitions and Mr.C.A. Anburaj, learned counsel appearing for Jayapriya Chit Funds (P) Ltd., the chit fund company.

4.The learned counsel appearing for the petitioners submits that the Executing Court grossly erred in passing the order of attachment without hearing the counsel. He also submits that the award was passed

without notice to the petitioners. Further, he would submit that the interest charged is exorbitant and offends the Tamil Nadu Prohibition of Charging of Excess Interest Act. He would also submit that the attachment of salaries of all the judgment debtors is bad in law.

5.Per contra, the learned counsel appearing for the Chit Fund Company/decreed holder would submit that the petitioners have not challenged the arbitration awards dated 23.03.2011 in A.R.Nos.1427, 1428 & 1429 of 2010 and they have now become final. Therefore, the grounds raised by the petitioners cannot be raised at the execution stage. Further, he would also contend that attachment of only 1/3rd of the salary of each of the judgment debtors was granted by the Executing Court and therefore, order of attachment is in accordance with law.

DISCUSSION

6.This Court has perused and examined the impugned order. Admittedly, arbitration awards dated 23.3.2011 have been passed against the petitioners in A.R.Nos.1427, 1428 & 1429 of 2010 and it is also the admitted case that the petitioners have not challenged the said awards dated 23.3.2011 passed in A.R.Nos.1427, 1428 & 1429 of 2010 and the said awards have now become final. The Chit Fund company, which is the decree holder, has filed E.P.Nos.148, 149 & 150 of 2011 in A.R.Nos.1427, 1428 & 1429 of 2010 respectively to execute the awards dated 23.3.2011 passed in favour of the Chit Fund seeking attachment of

the salary of each of the judgment debtors to the extent of 1/3rd after deduction of Rs.1000/- as stipulated under proviso (i) to Section 60 CPC. Even in the counter filed by the petitioners in the respective E.P.s, the petitioners have stated that the restrictions under Section 60 CPC will have to be adhered to by the Executing Court. As seen from the impugned orders, the Executing Court has satisfied the requirements of proviso (i) to Section 60 CPC by attaching the salary of each of the judgment debtors only to the extent of 1/3rd after deducting Rs.1000/- from and out of the respective salaries.

7.In the considered view of this Court, there is no infirmity in the impugned orders as the Executing Court has rightly adhered to proviso (i) to Section 60 of the Code of Civil Procedure, 1908.

8.In the result, there is no merit in the instant revisions. Accordingly, the civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes / No

To

The I Addl. Sub Court,
Cuddalore.



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ABDUL QUDDHOSE,J.

sms



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