IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.08.2019**

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.R.P.(NPD)No.2476 of 2014
and M.P.No.1 of 2014

1.V.Bhaskaran

2.V.Prema Bai

3.R.Vasudeva Rao ...Petitioners

vs.

Adhavan Chits (P) Ltd.,
Turaiyur Rep. by its
Foreman ...Respondent

Prayer: Civil Revision Petition filed under Section 115 of CPC, against the order passed in E.A.No.35/10 in E.P.No.29/08 in Ar.O.P.No.31/2004 dated 1.10.13 on the file of the learned District Munsif, Turaiyur.

For Petitioners : Mr.R.Singgaravelan

For Respondent : Mr.S.P.Hari Krishnan

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ORDER

The instant Civil Revision Petition has been filed challenging the order dated 01.10.2013, passed by the learned District Munsif,

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Turaiyur in E.A.No.35 of 2010 in E.P.No.29 of 2008 in AR.O.P.No.31 of 2004.

Brief facts leading to the filing of the instant revision under Section 115 CPC:

2.The petitioners are the judgment debtors in E.P.No.29 of 2008 pending on the file of the District Munsif Court, Turaiyur. The said execution petition was filed by the respondent/plaintiff to execute the Award passed under the Chit Funds Act against the petitioners/judgment debtors. Before the executing Court E.A.No.35 of 2010 was filed by the petitioners/judgment debtors under Section 34 CPC read with 115 CPC to set aside the interest portion under the Award dated 27.06.2005 since the interest awarded is exorbitant interest and not in accordance with Section 34 of CPC. A counter was also filed by the respondent in E.A.No.35 of 2010 stating that the Award passed against the petitioners has become final as no appeal has been filed by the petitioners as against the said Award as per the provisions of the Chit Funds Act. Further, it is stated that since the Award has become final, the executing Court cannot go behind the Award and the only remedy available to the petitioners is to file an appeal as per the provisions of the Chit Funds Act.

3.By order dated 01.10.2013, the executing Court closed

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E.A.No.35 of 2010 since the petitioners made an endorsement.

4.Aggrieved by the order dated 01.10.2013, passed in E.A.No.35 of 2010 in E.P.No.29 of 2008 in AR.O.P.No.31 of 2004, the instant Civil Revision Petition has been filed by the petitioners/judgment debtors under Section 115 CPC.

5.Heard Mr.R.Singgaravelan, learned counsel for the petitioner and Mr.S.P.Hari Krishnan, learned counsel for the respondent.

6.Admittedly, the Award dated 27.06.2005 passed against the petitioners in favour of the respondent has attained finality as no appeal has been filed under the provisions of the Chit Funds Act by the petitioners. As rightly stated in the counter filed by the respondent in E.A.No.35 of 2010, once the Award has attained finality, the executing Court cannot go behind the said Award. The only contention raised by the petitioners in this revision is that the interest awarded under the Arbitral Award passed against the petitioners is exorbitant and not in accordance with Section 34 CPC. All these issues cannot be raised at the execution stage.

7.This Court has also perused the Award passed in favour of

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the respondent against the petitioners and does not find any infirmity in the same. Therefore, there is no merit in this Civil Revision Petition.

8.Accordingly, the Civil Revision Petition shall stand dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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To

The District Munsif, Turaiyur.

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ABDUL QUDDHOSE, J.

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