

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (NPD) No.3804 of 2014

&

M.P.No.1 of 2014

T.Annadurai

... Petitioner

Vs

1.Sri Ram City Union Finance (P) Ltd
Neyveli, Rep. by its Manager.

2.D.Muthukumarasamy

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of Code of Civil Procedure against the order and decree made in E.P.No.4 of 2014 in A.C.P.No.507 of 2012 on the file of the Subordinate Judge, Neyveli dated 25.07.2014.

For Petitioner : Mr.S.Vijayakumar

For Respondent 1 : Mr.K.V.Ananthakrishnan

ORDER

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The instant Civil Revision Petition has been filed challenging the order dated 25.07.2014 passed by the learned Subordinate Judge, Neyveli in E.P.No.4 of 2014 in A.C.P.No.507 of 2012.

Brief facts leading to the filing of the instant revision:

2. The petitioner is the Judgment debtor and the first respondent is the decree holder. The first respondent obtained an Arbitral Award dated 25.06.2013 in A.C.P.No.507 of 2012 in their favour against the petitioner. Under the Arbitral Award dated 25.06.2013, the petitioner was directed to pay a sum of Rs.1,46,015/- together with interest and costs. The first respondent executed the Arbitral Award dated 25.06.2013 by filing an execution petition before the learned Subordinate Judge, Neyveli in E.P.No.4 of 2014 under Order XXI Rule 48 of CPC seeking attachment of the salary of the petitioner to realise the decree amount.

3. By order dated 25.07.2014, the learned Subordinate Judge, Neyveli allowed E.P.No.4 of 2014 in A.C.P.No.507 of 2012 filed by the first respondent and ordered, attachment of the salary of the petitioner. Aggrieved by the order dated 25.07.2014 passed in E.P.No.4 of 2014 in A.C.P.No.507 of 2012, the instant revision has been filed.

4. Heard Mr.S.Vijayakumar, learned counsel for the petitioner and Mr.K.V.Ananthakrishnan, learned counsel for the first respondent. Despite service of notice on the second respondent, no one has entered appearance on his side.

Discussion:

5. The only ground raised in this revision filed under Section 115 of Code of Civil Procedure by the petitioner/ first Judgment Debtor is that the Arbitrator under the Arbitral Award dated 25.06.2013 has awarded an exorbitant interest of 36% in favour of the first respondent/decree holder and therefore, the Executing Court ought not to have ordered the attachment of salary. Admittedly, the Arbitral Award dated 25.06.2013 passed in favour of the first respondent against the petitioner has attained finality, as the said Arbitral Award dated 25.06.2013 has not been challenged by the petitioner in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

6. This being the case, the ground raised by the petitioner viz., the Arbitrator has awarded exorbitant interest under the Arbitral Award,

cannot be raised during execution. This Court has also perused the impugned order and finds that the executing Court has rightly allowed the application filed by the first respondent/decreed holder under Order XXI Rule 48 of CPC by attaching the salary of the petitioner.

Conclusion:

7. This Court does not find any merit in this revision. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.06.2019

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Index: Yes/ No

Internet: Yes/No

Speaking Order/Non-speaking Order

सत्यमेव जयते

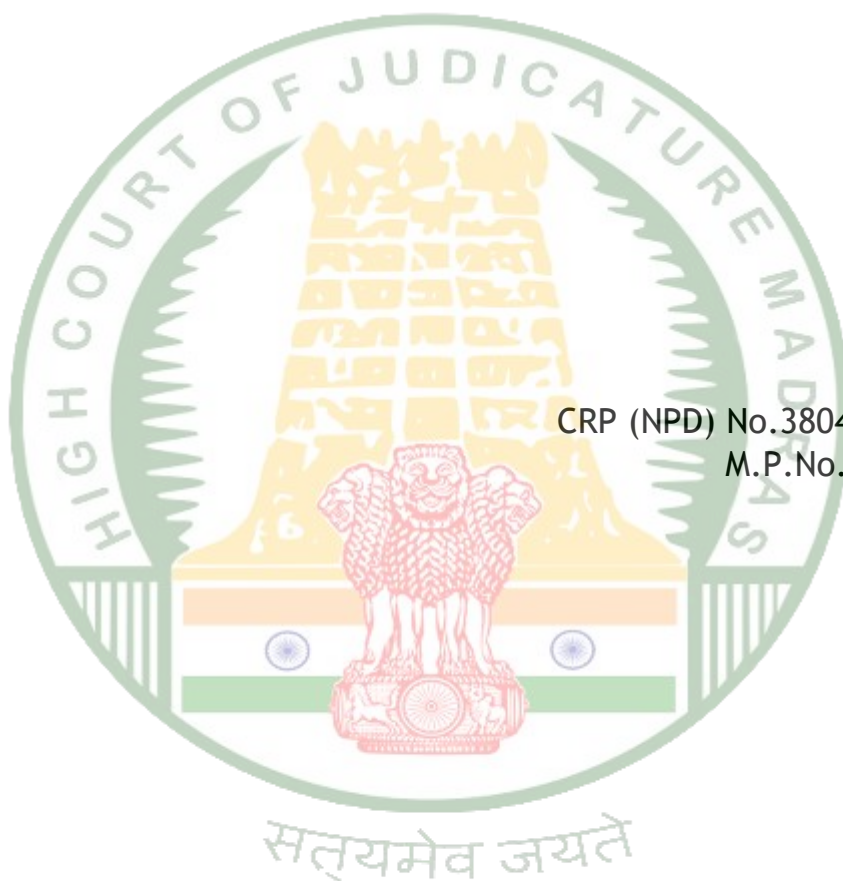
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To

The Subordinate Judge, Neyveli

ABDUL QUDDHOSE, J.

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