

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

C.R.P.NO.3564 OF 2019
AND C.M.P.NO.23353 OF 2019

S.Shashikala

... Petitioner

-Vs-

1. Shriram City Union Finance Limited
rep.by Authorised Signatory
Mr.V.Pugazhendhi, Manager (Legal)
having its registered office at
No.123, Angappa Naicken Street
Chennai - 600 001.

2. N.Sanjeevi

3. J.Gomathy

4. R.Premkumar

... Respondents

Prayer :

Civil Revision Petition under Section 115 of C.P.C., against the order dated 21.08.2019 passed in E.P.No.2700 of 2017 in A.C.P.(VS/EF) No.72 of 2014 on the file of the X Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.S.Ambigapathi

O R D E R

This revision has been filed as against the fair and decreetal order dated 21.08.2019 passed in E.P.No.2700 of 2017 in A.C.P.(VS/EF) No.72 of 2014 on the file of the X Assistant Judge, City Civil Court, Chennai.

2. Before the Execution Court, the revision petitioner was the second judgment debtor, against whom also the E.P., was filed, since it is a chit transaction where the first respondent in the E.P., was the principal borrower and other respondents stood as guarantors, including the revision petitioner.

3. The first respondent in the said E.P., who is the principal borrower, since has become insolvent and he was declared so, it seems the decree holder proceeded the E.P.,

against the guarantors and accordingly an order of attachment was passed by the Execution Court, through the impugned order, whereby the salary of the revision petitioner, who is working as a clerk in a bank, to the extent of Rs.22,000/- was said to be attached, as against which the present revision has been filed.

4. It is a settled proposition that the guarantor cannot take any shelter on the ground that he/she is a guarantor only. It is for the decree holder to proceed against both the principal borrower as well as the guarantor. Here in the case in hand, the principal borrower has already been declared as insolvent and therefore, the decree holder does not have any other option except to proceed against the guarantors and since the present revision petitioner admittedly stood as a guarantor, cannot now turn around and say that the decree holder cannot proceed against her. Moreover, the due, even admittedly, according to the learned counsel for the revision petitioner is only Rs.22,000/-, for which the attachment order was made.

5. It is not the case of the revision petitioner / guarantor that she does not have any means to pay the amount, as admittedly she is working as a clerk in a bank and is getting a decent salary. Therefore, on that ground also, no shelter can be taken by the revision petitioner. Hence, this Court feels that there is no infirmity in the impugned order.

6. In the result, the revision petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

KST

To

The X Assistant Judge,
City Civil Court, Chennai.

+lcc to Mr.S.Ambigapathi, Advocate, S.R.No.92805

C.R.P.No.3564 of 2019

BS (CO)
CS/02/12/2019