



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 15.11.2019

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) No.1082 of 2014

1.P.Jayakumar
2.D.Nirmala

.. Petitioners

Vs.

Sri Gokulam Chits and Finance Company
Private Ltd.,
No.49, Arcot Road, Kodambakkam,
Chennai.
Branch at:
Ramasubramanian Shopping Complex,
Veppamoodu Junction,
Nagercoil,
Rep., by its Assistant Branch Manager/
Authorized Representative,
Mr.Kumarasamy Pillai.

.. Respondent

Prayer : This Civil revision petition is filed under Section 115 of the Constitution of India, to set aside the fair and decreetal order dated 19.02.2014 passed in E.P.No.110 of 2012 in A.R.C.No.746 of 2009 on the file of the learned I Additional Subordinate Judge, Nagercoil.

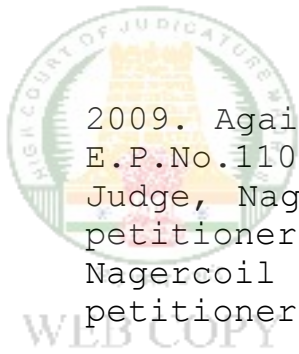
For Petitioners	: Mr.G.Venugopal
For Respondent	: Mr.C.Rajakumar

ORDER

Heard the learned counsel appearing on either side.

2.This Civil Revision Petition has been filed against the order passed in E.P.No.110 of 2012 in A.R.No.746 of 2009 dated 19.02.2014 on the file of the learned I Additional Subordinate Judge, Nagercoil.

3.The petitioners herein are the judgment debtors and the respondent herein is the decree holder in the Arbitration case. The respondent herein has obtained an award in A.R.C.No.746 of



2009. Against which, the respondent herein has filed a petition in E.P.No.110 of 2012 before the learned I Additional Subordinate Judge, Nagercoil to attach and sell the immovable property of the petitioners herein. The learned I Additional Subordinate Judge, Nagercoil has allowed the petition. Aggrieved by the order, the petitioners herein have filed the present civil revision petition.

4.The facts of the case are as follows:

The petitioners herein are members in the Chit fund, for a value of Rs.5,00,000/- (Rupees Five Lakhs only). He took the chit for a sum of Rs.3,75,000/- (Rupees Three Lakhs and Seventy Five Thousand only) on auction on 24.02.2002 and executed a promissory note for a sum of Rs.3,75,000/- (Rupees Three Lakhs and Seventy Five Thousand only). Since he has not paid the balance amount, the proceedings under Arbitration Act in A.R.C.No.746 of 2009 was initiated and an award was passed against the petitioners herein.

5.The contention of the revision petitioners is that summons were not served upon them and the petitioners were not aware of ARC proceedings. It is stated that cheque case for the same amount was initiated against the wife of the second petitioner, which will clearly show both the cases are fraudulent cases. It is stated that if the property is attached, it will cause huge hardship upon the petitioners and the order passed in E.P.No.110 of 2012 is to be set aside.

6.It is seen that the award in A.R.C.No.746 of 2009 is an exparte award. The petitioners have not filed any document to show that an appeal was filed against the award in A.R.C.No.746 of 2009. The petitioners have challenged only the E.P. Proceedings and failed to contest the other aspects. E.P. Petition was filed in the year 2012 and A.R.C. Proceedings was of the year 2009. The petitioners has not taken any steps to file an appeal against the award.

7.In the above circumstances, this revision petition is dismissed with liberty to the petitioner to take steps to set aside the award or to file an appeal if he is so advised. No Costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



Mrn

To

The I Additional Subordinate Judge, Nagercoil.

+1 CC to MR.M.P.SENTHIL, Advocate (SR-98969[F] dated 18/11/2019)

+1 CC to MR.B.BRIJESH KISHORE, Advocate (SR-99518[F] dated 19/11/2019)

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