

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Civil Revision Petition (NPD) No.550 of 2010
and M.P.No.1 of 2010

V.Krishnamoorthy

..Petitioner

Vs

1.M/s.Shriram Chits Tamil Nadu(P) Ltd.,
Mylapore Branch,
Chennai-600 004

2.M.Ganapathy
3.A.Theresa
4.A.Jayalakshmi
5.A.Abraham

..Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the order passed in E.P.No.843 of 2008 in ARC No.171 of 2006 on 24.10.2008 by the learned IX Assistant City Civil Court at Chennai.

For Petitioner : Mr.Gopalakrishnan for M/s.PA.Chithramani

For Respondents : No Appearance

ORDER

The first respondent herein is the decree holder and the petitioner and other respondents are the judgment debtors. The first respondent proceeded with ARC No.171 of 2006 and in order to execute the order passed in ARC No.171 of 2006, the first respondent filed execution petition in E.P.No.843 of 2008 before the IX Assistant City Civil Court at Chennai, praying to attach the salary of the petitioner.

2. Challenging the said attachment, the fourth respondent in the execution petition, filed the present revision petition before this Court.

3. The learned counsel for the petitioner would submit that the petitioner is only one of the guarantors. They have not taken any steps against the principal debtor and the other guarantors. Therefore, the attachment order passed by the execution Court is liable to be set aside.

4. No representation on behalf of the respondents. Though the respondents were not served, it is pertinent to note that the the first respondent

being the decree holder, is the contesting party. Therefore, non-serving of the notice on the other respondents would not affect the disposal of the present Revision Petition on merits.

5. The main contention raised by the learned counsel for the petitioner is that since he is one of the guarantor, his salary alone cannot be attached. It is not in dispute that the first respondent is the decree holder and got the decree against the petitioner and the other respondents in ARC No.171 of 2006 and in order to execute the order passed in ARC No.171 of 2006, the first respondent has filed the execution petition before the IX Assistant City Civil Court at Chennai and in EP, the executing Court attached the salary of the petitioner. Though, ARC No.171 of 2006 has not been challenged by the petitioner but admittedly, he is the guarantor and the liability of the guarantor is co-extensive and he is also jointly and severally liable to clear entire dues. Therefore, the contention raised by the learned counsel for the petitioner is not legally sustainable and in case the petitioner discharges the entire liability, he can recover the same from the principal debtor. Therefore, this Court does not find any perversity in the order passed by the trial Court in order to interfere with the same.

P.VELMURUGAN, J.

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6. In view of the above, this Court finds that there is no merit in the contentions raised by the learned counsel for the petitioner. Accordingly, this Civil Revision Petition fails and the same is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

17.07.2020

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To

- 1.The IX Assistant City Civil Court at Chennai
- 2.The Section Officer, V.R. Section, High Court, Madras

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C.R.P.(NPD).No.550 of 2010