

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPd).No.1145 of 2016
and
C.M.P.No.6291 of 2016

A. Nazeer Basha ... Petitioner/ Respondent/Judgment Debtor

Vs.

SMP Selvam ... Respondent/Claimant/Decree holder

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal Order dated 06.10.2015 passed by the learned Principal District Judge, Kancheepuram District in E.P.No.64 of 2013 and set aside the same and dismiss the E.P.No.64 of 2013.

For Petitioner : Mr.G.S. Dhanalakshmi

For Respondent : No Appearance

COMMON ORDER

(Heard through video conferencing)

This civil revision petition is filed against the order of attachment passed by the Principal District Judge in E.P.No.64 of 2013 in O.P.No.MSEFC No.02/2012 .

2. I heard the arguments of the learned counsel for the revision petitioner. There is no representation for the respondent.

3. The learned counsel for the revision petitioner submitted that the award passed in the original petition will not bind the respondent in his personal capacity, since the award was against the company and hence his personal property cannot be attached.

4. The award passed in O.P.No.MSEFC No.02/2012 is perused. It is seen that this petitioner has been shown as the respondent in his personal capacity and this award has been passed Ex-Parte.

5. The learned counsel for the petitioner further submitted that the Original petition was filed to recover the dues of the company and for which this petitioner in his individual capacity is not liable. But, this factual matrix would form part of his defence in the original petition, in which the award has been passed. Now the order which has been challenged in this revision petition is the attachment order passed by the Executing Court while executing the award.

6. All these points raised by the civil revision petitioner ought to have been raised and agitated before the forum which has passed the award and the petitioner cannot be allowed to raise those defence in this Revision petition, which has been filed to challenge the order passed in the Executing Proceedings. It is up to the civil revision petitioner to ensure that the award amount is settled in order to safeguard his property.

7. The learned counsel further submitted that the award in the original petition has been challenged under Section 34 of the Arbitration Act. The learned Judge of the execution Court has observed that no order passed in the said petition has been produced before him.

8. In the said circumstances the award remains unchallenged and the

Executing Proceedings will automatically follow the order of attachment.
Hence I find no reason to interfere in the order passed in the execution proceedings.

Accordingly, this petition is Civil Revision petition dismissed. No costs.
Consequently connected civil miscellaneous petition in C.M.P.No.6291 of 2016 is closed.

20.04.2021

Speaking/Non-speaking
Index : Yes/No
Internet : Yes/No
smn

To

- 1.The learned Principal District Judge, Kancheepuram District
- 2.The Section Officer,
V.R.Section,
High Court, Madras.

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R.N.MANJULA,J.

Smn



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