



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.No.3842 of 2018
and C.M.P.No.21403 of 2018

1. N.Chinnadurai
2. S.Sridhar

... Petitioners

Vs.

Shriram Chits Pvt. Ltd.,
Adyar Branch,
Surando Building, 2nd Floor,
No.6, L.B.Road, Adyar,
Chennai - 20

... Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 06.08.2018 made in E.A.No.573 of 2017 in E.P.No.1328 of 2016 in ARC 338 of 2010 by the learned X Assistant Judge, City Civil Court, Chennai, dismissing the said petition filed by the petitioners herein praying for issuance of summon to the JD No.1 in the above cause under Order VI Rule 7 R/w Section 151 CPC.

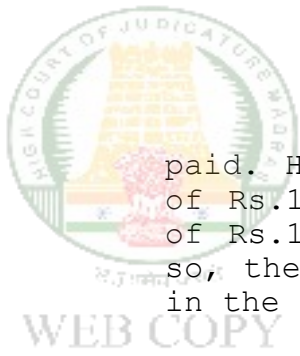
For Petitioners : Mr.G.Saravanan

For Respondent : Mr.T.Jayakumar

ORDER

This Civil Revision Petition is directed as against order dated 06.08.2018 passed by the learned X Assistant Judge, City Civil Court, Chennai, in E.A.No.573 of 2017 in E.P.No.1328 of 2016 in ARC.No.338 of 2010, thereby dismissing the petition for issuance of summons to the judgment debtor-1.

2. The petitioners are the judgment debtors 2 & 4 in the execution proceedings filed by the respondent herein arising out of ARC.No.338 of 2010. In the main execution petition, the petitioners filed their counter and specifically averred that the agent of the respondent had informed the judgment debtor-1 that the chit was taken after deducting the beat of Rs.1,65,000/- and the balance amount of Rs.3,35,000/- will be



paid. However on 31.08.2009, he handed over a cheque for a sum of Rs.1,77,525/- only to the judgment debtor-1 and the balance of Rs.1,57,475/- was due to the judgment debtor-1. While being so, the evidence of the judgment debtor-1 is very much necessary in the execution proceedings.

3. Therefore, the petitioners filed petition in E.A.No.573 of 2017 to issue summons to the first judgment debtor to give evidence with regard to the chit transaction in connection with ARC.No.338 of 2010. It was dismissed for the reason that the letters sought for production before the execution Court by the petitioners herein are prior to the arbitral award. Therefore the points raised by the petitioners can be raised one before the appellate authority and they cannot challenge the validity of the award before the execution Court. Aggrieved by the same, the present Civil Revision Petition has been filed.

4. It is seen that the petitioners never challenged the execution proceedings. Only to prove the chit transaction by the judgment debtor-1, they prayed to issue summon to the judgment debtor-1 to give evidence. Considering the above facts and circumstances, the order passed by the trial Court is perverse and liable to be set aside.

5. Accordingly, the order dated 06.08.2018 passed by the learned X Assistant Judge, City Civil Court, Chennai, in E.A.No.573 of 2017 in E.P.No.1328 of 2016 in ARC.No.338 of 2010 is hereby set aside. The trial Court viz., the learned X Assistant Judge, City Civil Court, Chennai, is directed to issue summons to the judgment debtor-1 on payment of necessary data.

6. With the above directions, this Civil Revision petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

rts



To

1. The X Assistant Judge,
City Civil Court,
Chennai.

2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

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SS (CO)
RLP (20/07/2021)