

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2021

CORAM

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

**C.R.P.(NPD) Nos. 4306, 4309 & 4310 of 2018
and CMP. Nos. 23555, 23565 & 23571 of 2018**

CRP (NPD) No. 4306 of 2018

K.Kolanjiappan

...

Petitioner

Vs

1. M/s.Shriram Chits Tamilnadu (P) Limited,
represented by its Authorised signatory
A.Jayasundari, Law Officer,
Tondaiyarpeta Branch,
Chennai – 600 081.

2. M.Karunanidhi

3. G.Ramesh

4. C.Arulraj Moses

5. K.Jayachitra

...

Respondents

CRP (NPD) No. 4309 of 2018

K.Jaya Chitra

...

Petitioner

Vs

1. M/s.Shriram Chits Tamilnadu (P) Limited,
represented by its Authorised signatory
A.Jayasundari, Law Officer,
Tondaiyarpeta Branch,
Chennai – 600 081.

2. K.Kolanjiappan
3. M.Karunanidhi
4. G.Ramesh
5. N.Arulraj Moses

... Respondents

CRP (NPD) No. 4310 of 2018

K.Kolanjiappan

...

Petitioner

Vs

1. M/s.Shriram Chits Tamilnadu (P) Limited,
represented by its Authorised signatory
A.Jayasundari, Law Officer,
Tondaiyarpet Branch,
Chennai – 600 081.

2. K.Jayachitra
- V.Balasubramani (died)
3. N.Arulraj Moses

...

Respondents

Prayer in CRP (NPD) No. 4306 of 2018 :- Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 13.08.2018 made in E.P.No.1057 of 2017 in ARC No.949 of 2013 on the file of the IX Judge, City Civil Court, Chennai.

Prayer in CRP (NPD) No. 4309 of 2018 :- Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 13.08.2018 made in E.P.No.1059 of 2017 in ARC No.949 of 2013 on the file of the IX Judge, City Civil Court, Chennai.

Prayer in CRP (NPD) No. 4310 of 2018 :- Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 13.08.2018 made in E.P.No.1689 of 2017 in ARC

(EF/CAR) No.614 of 2012 on the file of the IX Judge, City Civil Court, Chennai.

For Petitioners in all CRPs : Mr.A.S.Vijayaraghavan
For R1 in all CRPs : Mr.K.V.Anantha Krishnan
For R2 to R5 in CRP.4306/2018: Given up
For R2 to R5 in CRP.4309/2018: Given up
For R2 & R3 in CRP.4310/2018: Given up

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decretal order dated 13.08.2018 made in E.P.No.1057 of 2017 in ARC No.949 of 2013, E.P.No.1059 of 2017 in ARC No.949 of 2013 and E.P.No.1689 of 2017 in ARC (EF/CAR) No.614 of 2012 on the file of the IX Judge, City Civil Court, Chennai, thereby ordering to attach the salary.

2. In all the Civil Revision Petitions, the petitioners are the Judgment Debtors and the first respondent is the Decree Holder. The first respondent initiated to file a petition seeking execution of the award by attachment of salary to recover the execution petition claim amount, in pursuance of the award passed in ARC proceedings. The ARC

proceedings have arisen out of each fund transaction and trade loan. The award was passed by the Arbitrator in all the ARC proceedings and the Decree Holders were set ex-parte. Admittedly, the petitioners did not take any steps to set aside the ex-parte award. The Execution Court cannot go behind the decree and as such, the objections raised by the Decree Holders cannot be entered by the Execution Court and ordered for attachment of portion of the salary of the Judgement Debtor.

3. The only ground raised by the petitioners is that the order of the attachments of 2/3rd salary of the decree holders for a period of 24 months after deducting Rs.1,000/- of the revision petitioners will be left without being paid any amount as their monthly salary and they have to suffer without a single paisa. He further submitted that the Court below has passed an order in E.P.No.1059 of 2017 to attach the household articles.

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4. It is pertinent to mention here that Order 21 Rule 48(2) says that where the attachable proportion of such salary or allowance is already being withheld and remitted to a Court in pursuance of a previous and unsatisfied order of attachment, the officer appointed by the

appropriate government in this behalf shall forthwith return the subsequent order to the Court issuing with a full statement of all the particulars of the existing attachment.

5. In the case on hand, the petitioners salary attached in pursuant to the two decrees, in which one is arisen out of each fund transaction and another one is arisen out of trade loan. Therefore, the petitioners are very much protected under Order 21 Rule 48(2) of CPC.

6. In view of the above, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, these Civil Revision Petitions stands dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

24.06.2021

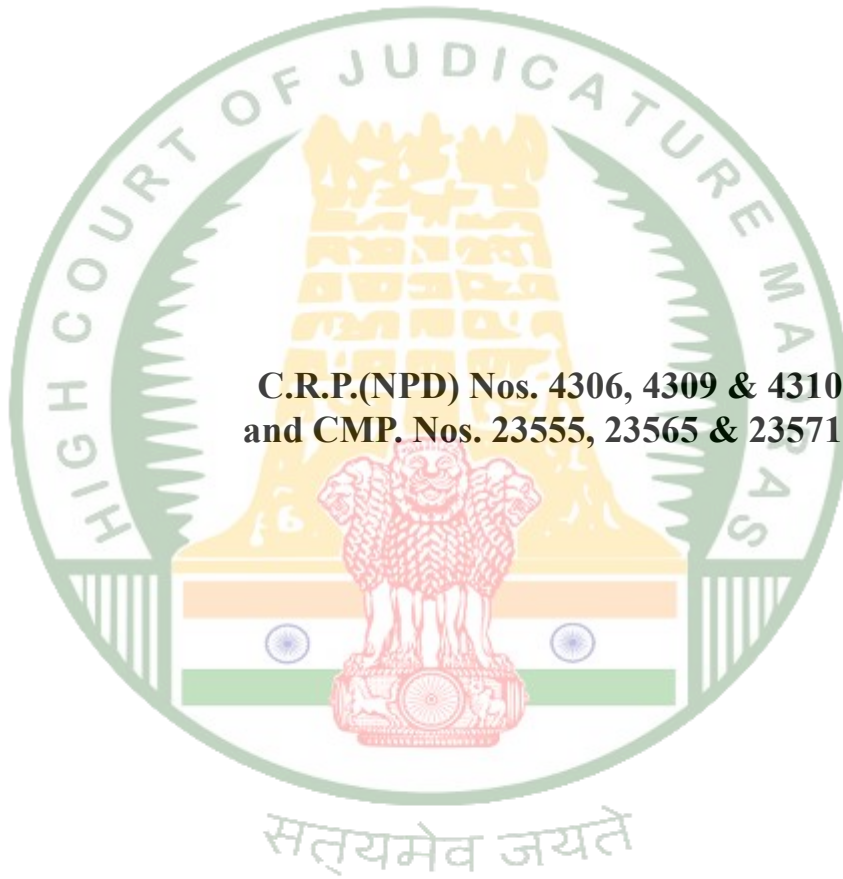
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To
The IX Judge,
City Civil Court,
Chennai

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G.K.ILANTHIRAIYAN, J.

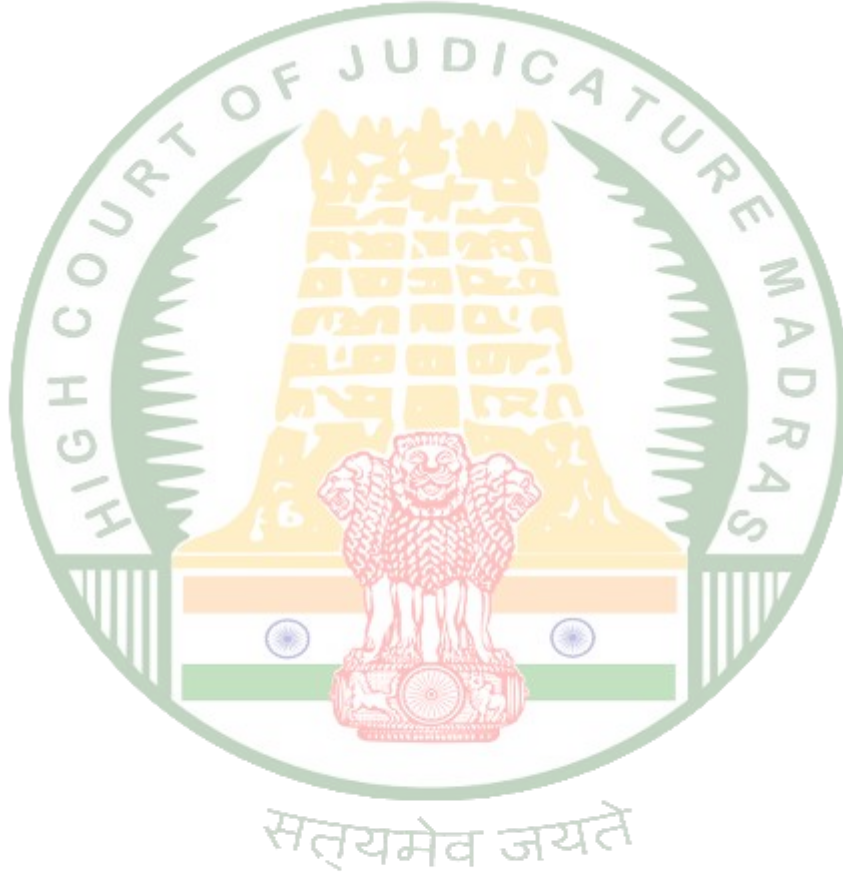
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