



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2021

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.R.P. (MD) .No.743 of 2021

and

C.M.P. (MD) No.4033 of 2021

1.A.Ramanathan

2.R.Lakshmi

: Petitioners/ Respondents/Judgment
Debtors

Vs.

M/s.Shriram City Union Finance Limited,
Rep.by its Legal Manager & Power of
Attorney Holder,
K.Srisubramanian.

: Respondent/Respondent/Decree Holder

PRAYER : Civil Revision Petition has been filed under Section 227 of Constitution of India, to call for the records of the petition in E.P.No.56 of 2020 in A.C.P.TF.No.81 of 2019 on the file of the Principal District Judge, Ramanathapuram and to struck down the same and allow this Civil Revision Petition.

For Petitioner : Mr.A.Haja Mohideen

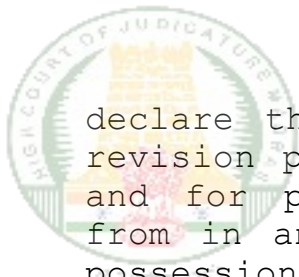
ORDER

The revision petition has been filed to struck off the petition in E.P.No.56 of 2020 in A.C.P.TF.No.81 of 2019 on the file of the Principal District Court, Ramanathapuram.

2.The respondent/decree holder has laid the Execution Petition in E.P.No.56 of 2020 against the revision petitioner / judgment debtor for executing the arbitral award passed in A.C.P.TF.No.81 of 2019, dated 31.12.2019 by the sole Arbitrator.

3.It is evident from the records that all the respondents before the Arbitrator, including the revision petitioner had remained ex-parte, that the Arbitrator after conducting enquiry, has passed the award on 31.12.2019, directing the Judgment Debtors to pay Rs.8,90,076/- with interest and costs and that the decree holder has laid the execution of the said award by attachment and sale of the petition mentioned property.

4.The case of the revision petitioner is that the respondent along with one Karthikeyan, fraudulently obtained the mortgage deed and on that basis arbitration proceedings were initiated and got the award and hence, they were forced to file a suit to



declare that the mortgage deed dated 19.09.2018 executed by the revision petitioner in favour of the respondent is null and void and for permanent injunction restraining the defendant therein from in any manner trespassing or interfering with the peaceful possession and enjoyment of the suit property.

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5.The learned counsel for the revision petitioner would submit that though the suit challenging the mortgage deed is pending before the competent Civil Court, the respondent is not entitled to file the execution petition, that the respondent has only to file the necessary application in the civil suit in O.S.No.220 of 2019, if any relief is required and that since the alleged loan transaction itself is fraudulent one, the present execution petition is legally not sustainable.

6.At the outset, this Court is constrained to say that the above action of the revision petitioners would only amount to abuse of process of the Court. Admittedly, the revision petitioners had remained ex-parte in the arbitration proceedings. More over, they have admitted the receipt by the Court notice in E.P.No. 56 of 2020 and hence, it is for them to appear before the Executing Court and to put forth their defence, if any.

7.It is not the case of the revision petitioners that they have taken any steps for setting aside the ex-parte award passed by the Arbitrator. The revision petitioners by simply alleging that the transaction was fraudulent and filed the suit challenging the same, they cannot stall the execution proceedings. In case, if the alleged loan transaction is fraudulent one and the mortgage deed is null and void, it is for them to challenge before the proper forum and certainly, they have no *locus standi* to question the very filing of the execution petition itself. Hence, this Court has no hesitation to hold that the very filing of the revision petition is legally unsustainable and consequently, this Court is not inclined to admit the revision petition.

8. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



Note:

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In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Principal District Judge,
Ramanathapuram.

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