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C.R.P(NPD)No.822 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P(NPD)No.822 of 2022
and C.M.P.No.4138 of 2022

T.Sam Edwin Raj,
S/o.V.Thangaraj

2.J.Glady Florida,
W/o.Sam Edwin Raj

...Petitioners

Vs.

M/s.Sundaram Finance Limited,
Represented by its Assistant Manager (Legal)
Tr.M.Surrenderar
Having office at No.21, Patullos Road,
Chennai – 600 002.

...Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of C.P.C to set aside the order in E.P.No.196 of 2019 in Arbitration Case No.504 of 2017 dared 03.12.2021 on the file of the IV Additional District and Sessions Judge, Tiruvallur at Ponneri.

For Petitioners : M/s.Reshmi Christy

For Respondent : Mr.D.Pradeep Kumar



ORDER

This revision is filed by the Judgement Debtor in E.P.No.196 of 2019 which is laid by the respondent for executing an award of the Arbitration in Arbitration case No.504 of 2017. The Execution petition is laid for attachment and sale of a certain property.

2.The contention of the revision petitioner is that item No.1 of the property belongs to his minor children but it has been disclosed to the Court that the property originally belonged to the revision petitioner/ judgement debtor and he had settled the property in favour of his children. In other words, the transfer of title is a smoke screen, which the Judgement Debtor has created to defeat the execution of the award which the respondent has obtained.

3.Learned counsel for the respondent contended that it is only the revision petitioner who contends that the property belongs to his children, whereas, according to the respondent it continues to be in his name. He also added that under Section 17 of the Arbitration and Conciliation Act, the Arbitrator has passed an order of interim attachment of item No.1 of the property and the alleged settlement was in 2020, after the order of interim attachment.



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4.Heard Both sides.

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5.This Court requires the Execution Court to ensure that only so much property as is necessary to satisfy the decree alone should be brought to sale and sale of the entire property should be pursued only the property cannot be conveniently severed to enable the Court to identify the property which may be sufficient to satisfy the decree. The Court may also appoint a commission if so needed and also receive a valuation report of the property from the parties concerned. The entire exercise however must be completed within a period of three (3) months from the date of communication of the order and at any rate not later than 31.08.2022.

6.With the above direction, this Civil Revision Petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

05.04.2022

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N.SESHASAYEE, J.,

kas/dk

To

The IV Additional District and Sessions Judge,
Ponneri
Tiruvallur

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