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CRP(NPD)No.2207 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P.(NPD) No.2207 of 2018

and

C.M.P.No.13937 of 2018

T.Kumar

... Petitioner

vs.

1.M/s. Shriram City Union Finance Ltd.,
Regd. Off. At No.3363, Angappan Naicken Street,
Chennai – 600 001.

2.M/s.Sri Karpaga Vinayagar Enterprises,
Prop. Mrs.Veilakshi,
No.28/3, Kanagar Street,
Agaram, Chennai – 600 082.

3.Mrs.Veilakshi

4.Mr.Mohandoss. G

5.Mr.Muthu.C

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Order dated 07.12.2017 in E.P.No.645/2017 in A.C.P.No.(EF/CMS) 416/2013, on the file of the IX Assistant Judge, City Civil Court, Chennai.



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For Petitioner : Mrs.K.Annamma
For R1 : Ms.A.Janani
For Mr.K.V.Anantha Krushnan

ORDER

The Revision Petition has been filed to set aside an order dated 07.12.2017 in E.P.No.645 of 2017 passed by the IX Assistant City Civil Court at Chennai. The said Court was presented with an award passed by an Arbitrator in A.C.P.No.(EF/EMS) 416/2013 dated 14.03.2015, and execution was sought of the said award.

2.The grievance of the petitioner is that though he had signed all the relevant documents at the time of borrowal of the money by M/s. Sri Karpaga Vinaygar Enterprises represented by its Proprietor Mrs.Veilakshi, he was only a guarantor and therefore it was extremely unreasonable on the part of the decree holder/claimant, to have taken a decision to proceed only against the petitioner by passing the principal borrower, the 1st guarantor, the 2nd guarantor, the 3rd guarantor and also incidentally the 5th guarantor.



3. The law is very well settled that the decree holder has an option, in case of an award for money decree to proceed jointly or severally against any one of the judgment debtors, be they principal borrower or guarantor.

4. Having admitted the signatures to the various documents presented at the time of borrowal of the loan, the petitioner had bound himself to stand guarantee for repayment of the loan if they fall due or if default is committed by the principal borrower. As guarantor his liability is what can be termed as co-extensive with that of the principal borrower.

5. Though it is contended by the learned counsel for the Revision Petitioner that the decree holder without proceeding serial wise calling upon the principal debtor to first pay the money and thereafter wait for the response and then go out to the 1st judgment debtor and then go to the 2nd judgment debtor and then finally, come to the petitioner as the 4th judgment debtor. This court does not accept the said contention or procedure. The Decree holder can exercise the option to initiate execution proceedings as against any one of the judgment debtors, who are capable for repaying the amount.



6. They have placed a trust that if there is a default they being solvent, would satisfy the debt. A guarantor execute a guarantee document on that basis. The petitioner had also done that. There is no doubt raised about the signatures. No doubt is raised that the signatures had been obtained by force or coercion. On the other hand it is stated by the learned counsel that the signatures had been appended on behalf of the principal debtor/Sri Karpaga Vinaygar Enterprises represented by its proprietor Mrs.Veilakshi.

7. The petitioner having stood as a guarantor and is now a judgment debtor in an award lawfully passed and in accordance with law has naturally to come forward to settle the issues and pay the money. Otherwise, the consequence is that the award must be satisfied in manner known to law namely among other manners by attachment of salary which is permissible under the Code of Civil Procedure as one of the methods for executing the decree.

8. I find no need or necessity to interfere with the Execution Petition which is now pending for the past nearly 5 years before the IX Assistant City Civil Court, Chennai.



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9. Accordingly, this Civil Revision Petition is dismissed. E.P.No.645 of 2017 is directed to be proceeded further by the IX Assistant City Civil Court, Chennai in manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

28.02.2022

Index:Yes/No

Speaking Order:Yes/No
ssi

To:

- 1.The IX Assistant Judge,
City Civil Court, Chennai.
- 2.The Section Officer,
V.R.Section,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

ssi

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