



WEB COPY



C.R.P.No.1257 of 2019

.IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2022

CORAM

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

C.R.P.No.1257 of 2019

and

CMP.No.8172 of 2019

1. Aruna Metal Industries,
No.A5, Indl Est Mettur Dam,
Salem – 636 402.

2. Srinivasan

3. S.Sasikala

....

Petitioners

Vs

M/s.Magma Fincorp Limited,
Rep by it Power of Attorney,
S.Godson Vinokaran,
Navin's Pesidium, 7-A, B-Block,
New No.17-19, Old No.103,
Nelson Manickam Road,
Chennai – 600 029.

....

Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 06.12.2018 before III Additional District Court, Salem, in E.P.No.127 of 2018 in Arbitration Award Case No.MGM-CIII/76/2016 (Before the Arbitral Tribunal Ram Pravesh Singh, Advocate/Sole Arbitrator, Kolkata) and allow the above Civil Revision Petition.



WEB COPY



C.R.P.No.1257 of 2019

For Petitioner : Mr.R.Subramanian

For Respondent : Mr.M.Arunachalam

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 06.12.2018 passed in E.P.No.127 of 2018 in Arbitration Award Case No.MGM-CIII/76/2016 by the III Additional District Court, Salem, thereby ordering attachment of the properties.

2. The learned counsel appearing for the petitioner would submit that after filing the Civil Revision Petition, they have no instruction from the petitioners and to that effect he also filed a Memo before this Court today.

3. Recording the said memo filed by the petitioner and on perusal of the records revealed that the petitioners are Judgment Debtors. The respondent filed an Execution Petition in E.P.No.127 of 2018 to execute the Arbitration Award passed in MGM.CIII/76/2016 to attach and sale the schedule mentioned movable properties.



C.R.P.No.1257 of 2019

4. The petitioners filed counter stating that the copy of the award was not furnished to them. Therefore, the Arbitration is unsustainable and it is liable to be rejected. They further submitted that they also filed an Insolvency Petition before the Subordinate Court made in I.P.No.2 of 2016 and notices were duly served to the respondent herein. Even then, they did not appear before the Executorial Court. While being so, the respondent approached the Sole Arbitrator and obtained award behind their back, without even serving any copy of the award.

5. A perusal of the records reveals that the petitioners were duly served with notice and Arbitration proceedings. Thereafter, the respondent also issued notice to them in respect of the execution of Arbitration Award. On receipt of the same, the petitioners failed to appear before the Executorial Court and simply filed Insolvency Petition in I.P.No.2 of 2016. Though, the petitioners mentioned the Insolvency Petition number, they did not mention about the Arbitration Award in the Insolvency Petition.

6. In view of the above, this Court finds no infirmity or



C.R.P.No.1257 of 2019

illegality in the order passed by the Court below. Accordingly, this Civil

Revision Petition stands dismissed. Consequently, connected

miscellaneous petition is closed. No costs.

12.12.2022

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

Lpp

To

The III Additional District Judge,
Salem.

G.K.ILANTHIRAIYAN, J.



WEB COPY



C.R.P.No.1257 of 2019

Lpp

C.R.P.No.1257 of 2019
and
C.M.P.No.8172 of 2019

12.12.2022