

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Revision Petition No.1772 of 2021
and CMP No.13713 of 2021

A.Sundaramoorthy

... Petitioner

Vs.

M/s.Shriram Chits Tamil Nadu (P) Ltd.,
Rep. By its Law Officer,
Mount Road Branch,
No.4, 289, Pycrofts Road,
Bharathi Salai, Police Quarters,
Triplicane, Chennai 600 005.

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the docket order dated 01.04.2021 passed in E.A.No.1 of 2020 in E.P.No.2374 of 2012 in ARC No.1476 of 2010 by the X Assistant City Civil Court at Chennai.

For Petitioner : Mr.T.S.Charles

For Respondent : Mr.M.Devendran

ORDER

The challenge in this Revision is to the order of the Executing Court tasked with the job of execution of an award passed by the Registrar of Chits under Section 64 of the Chit Fund Act, reducing the upset price for the sale of the property.

2. The respondent, a Chit Fund Company, obtained an award from the Registrar of Chits under Section 64 of the Act on 02.12.2010. Claiming that no Appeal has been filed against the said award, the respondent sought for execution of the award,

which is treated to be a decree of a Civil Court vide Section 71 of the Chit Fund Act, before the City Civil Court, Chennai. The Executing Court directed the sale of the property. Since there were no bidders, the respondent decree holder applied for reduction of a upset price which was granted. It is this order that is subject matter of challenge in this Revision.

3. Mr.T.S.Charles, learned counsel appearing for the petitioner would vehemently contend that in the absence of a decree of a Civil Court mortgaged property cannot be brought to sale. He would also point out that this incumbent upon the respondent to have sued on the mortgage and obtained a decree before seeking to execute the award. I am unable to agree with the contention of the learned counsel.

4. The Mortgage Deed in question has been executed as a security for the chit transaction. The Chit Fund Act, which is a special enactment, enables the foremen to apply to the Registrar under Section 64 of the Act, for realisation of the amounts due under the transaction. The award passed by the Registrar consequent upon a dispute being raised becomes a decree of a Civil Court by operation of Section 71 of the Chit Fund Act. Once it becomes a decree of a Civil Court then it is executable as a decree of the Civil Court. The objection taken by the learned counsel for the petitioner is unacceptable.

5.Hence I do not see any merit in this Revision, the Civil Revision Petition therefore fails and it is accordingly dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

jv

To

1. The X Assistant City Civil Court,
Chennai.

2. The Section Officer,
V.R.Section, High Court of Madras.

+1cc to Mr.T.S.Charles, Advocate Sr.2328
+1cc to Mr.M.Devendran, Advocate Sr.2171

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