



CRP(MD)No.1978 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)No.1978 of 2022

Sri Vignesh Guru Chits (P) Ltd.,
Through its Foreman
G.Veerammal

: Petitioner

Vs.

C.Selvaraj

: Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code to call for the records relating to the fair and decreetal order dated 09.09.2019 passed in E.P.No.7 of 2018 on the file of the District Munsif Court, Vadipatti and set aside the same.

For Petitioner : Mr.J.Jeyakumaran

For Respondent : Mr.D.Sadiq Raja

ORDER

The petitioner before this Court is a Chit Company and according to them, one Nagarajan, who joined as a member / subscriber on 12.04.2002, defaulted in



payment, after receiving the entire chit amount. While receiving the chit amount, one Ravi has pledged his property situated at Cholavanthan, Vadipatti Taluk, Madurai District, as a collateral security, on behalf of the said Nagarajan. Since the said Nagarajan has become a defaulter, the petitioner company has filed C.D.No. 210 of 2005 before the Deputy Registrar of Chits, Madurai, for recovery of Rs.60,000/- along with interest of Rs.36,000/- @ 24% under Section 64(1)(A) of Tamil Nadu Chit Fund Act, 1984. The same was allowed on 23.01.2006 and the execution petition filed in E.P.No.7 of 2018 to execute this order was dismissed by the learned District Munsif, Vadipatti, by order dated 09.09.2019. Aggrieved over the same, the petitioner has moved the instant revision petition.

2.Learned Counsel for the petitioner contended that the Executing Court has failed to consider the scope of the award and the mode of executing the same. The guarantor / Ravi and the respondent herein colluded with each other and in order to cheat the petitioner, they have transferred the property among themselves to create encumbrance. The petitioner Company is running through public funds and without considering the public nature, the Executing Court has dismissed the petition. Therefore, he prayed for interference.



3.This Court paid it's anxious consideration to the submissions made by the petitioner's Counsel and also to the materials placed on record.

4.It appears that the petitioner Company has already moved an execution petition in E.P.No.2 of 2009 before the District Munsif cum Judicial Magistrate Court, Vadipatti, to execute the order passed in C.D.No.210 of 2005, by attaching and auctioning the subject property, which originally belonged to one Ravi / guarantor. Pending that execution petition, the respondent herein has filed E.A.No. 15 of 2010 under Order 21 Rule 58 CPC claiming that he purchased the property from Ravi through a sale deed dated 19.11.2003 and that he is the absolute owner of the subject property. The Court, by order dated 28.03.2016, dismissed E.P.No.2 of 2009 and allowed E.A.No.15 of 2010.

5.Now, the petitioner has moved the present execution petition in E.P.No.7 of 2018 as against the respondent herein, stating that the respondent has purchased the property which was given as collateral by the guarantor to the petitioner and therefore, sought for a direction to recover the money by auctioning the property, by giving effect to the order passed in C.D.No.210 of 2005.



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6.The order dated 23.01.2006 passed in C.D.No.210 of 2005 itself squarely covers this issue and clears the respondent of any liability. This order dated 23.01.2006 was passed after taking note of the fact that the property was sold to the respondent herein as early as on 19.11.2003, but it was taken as collateral only on 30.08.2005 from the guarantor. It was also held that the petitioner can realize their amount from the other movable and immovable properties of the chit subscriber.

7.It is categorically stated in the orders passed in E.A.No.15 of 2010 and in C.D.No.210 of 2005, that the respondent herein is a *bona fide* purchaser and there is no liability on the part of the respondent and that it is the petitioner's fault to attach a property which was already sold. The Executing Court has correctly applied the principle that it cannot go beyond the decree and this Court does not find any error or infirmity in the order passed by the Executing Court warranting interference.

Accordingly, this revision petition stands dismissed. No costs.

Index : Yes / No
Internet : Yes
gk

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To
The District Munsif,
Vadipatti.



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B.PUGALENDHI, J.

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