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C.R.P(NPD).No.3954 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P(NPD).No.3954 of 2019 &
C.M.P.No.36088 of 2019

1.S.Senniyappan
2.S.Satheesh

.. Petitioners

vs

M/s.Fullerton India Credit Company Limited,
1st Floor, No.307, Megh Tower,
Poonamallee High Road,
Maduravoyil,
Chennai – 600 095,
Rep. By its Authorised Representative,
Mr.Veerabagu Alagianambi

.. Respondent

Petition filed under Section 115 of Code of Civil Procedure against the fair and decretal order dated 13.07.2018 passed in E.P.No.109 of 2016 in ARB.No.400 of 2013 on the file of the Principal District Judge at Tiruppur.

For Petitioners : Mr.K.Myilsamy

For Respondent : Mr.S.Namasivayam



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ORDER

The judgment debtors are the civil revision petitioners. Arbitration proceeding were initiated by the respondent in Arbitration case No.400 of 2013 and that ended in decree on 06.03.2014.

2. As per the award, the outstanding amount came to Rs.19,59,646/-. In order to execute the same, E.P.No.109 of 2016 was presented. This execution petition was for the purpose of attachment and sale. The trial court ordered attachment, against which the present revision.

3. Heard Mr.Myilsamy, learned counsel for the petitioners and Mr.S.Namasivayam learned counsel for the respondent.

4. Mr.Myilsamy, learned counsel for the petitioners would agitate two points before me (i) that no notice was given by the Arbitrator, prior to passing of the award and (ii) that the loan was by way of mortgage and therefore, an arbitration proceeding is not maintainable and only a suit for foreclosure is maintainable.



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5. Both these points ought to have been agitated by way of a petition under Section 34 of the Arbitration and Conciliation Act. It is not open to an executing court to go behind the decree and comment upon the manner, in which the decree was passed.

6. Mr.Myilsamy, learned counsel for the petitioners would submit that the judgment debtors had not preferred any petition under Section 34 of the Arbitration and Conciliation Act. The Executing Court not being in a position to go behind the decree, had rightly ordered attachment.

7. I do not find any merit in this revision. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26.09.2023

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Index:Yes/No

Speaking order/Non speaking order

Neutral Citation:Yes/No



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To

1. The Principal District Judge at Tiruppur.



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V. LAKSHMINARAYANAN,J.
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