



C.R.P.No.501 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 16.03.2023

Delivered on 28.04.2023

CORAM:

The Hon'ble MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.R.P.No.501 of 2021
and C.M.P.No.4352 of 2021

Syled Sultan Beevi

...1st Respondent/Petitioner

-Vs-

1.Sri Ram Chits Private Limited,
Thiruvarur rep by its
Foremen E.Thamilselvan,
23/3, Nethaji Road,
Thiruvarur.

...Petitioner/Respondent

2.J.M.Sulatan

...2nd Respondent/Respondent

Prayer:- Civil Revision Petition filed under Section 115 of CPC., to set aside the fair and decreetal order dated 07.07.2020 in E.P.No.63 of 2019 in A.R.C.No.148 of 2011 on the file of the learned Subordinate Judge, Nagapattinam.

For Petitioner : M/s.R.T.Shyamala

For R1 : Mr.T.Jayakumar

For R2 : No Appearance

ORDER



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This Civil Revision Petition is filed by the 1st Respondent in E.P.No.63 of 2019 in A.R.C.No.148 of 2011 dated 07.07.2011 on the file of the learned Subordinate Judge, Nagapattinam. The Revision Petitioner herein stood as surety for the subscriber of the chits who is impleaded as 2nd Respondent in this Revision Petition.

2.The learned Counsel for the Revision Petitioner submitted that the Revision Petitioner is the Judgment Debtor in the Execution Petition in E.P.No.63 of 2019 in A.R.C.No.148 of 2011 before the learned Subordinate Judge, Nagapattinam. Execution Petition had been filed based on the Arbitration Award of the Assistant Registrar Chits, Nagapattinam. The learned Counsel further contended that after passing of the Award, Proclamation was passed on the same day which is a procedural error. Execution Petition had been filed with exaggerated interest. The Judgment Debtor, after entering appearance, had filed Counter giving out the details of the interest. As per the Award, the total amount to be paid by the Judgment Debtor calculated is only Rs.13,16,789/-. Whereas, as per the Memo of Calculation filed by the Decree Holder, it was Rs.21,17,549/-. It was an erroneous calculation. The objections raised by Judgment Debtor in



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the Counter was not at all considered by the learned Subordinate Judge, Nagapattinam and had ordered attachment of the property of the Judgment Debtor. Aggrieved by the order of the learned Subordinate Judge, Nagapattinam, the Judgment Debtor had approached this Court by filing Civil Revision Petition under Section 115 of C.P.C., seeking to set aside the order of the learned Subordinate Judge, Nagapattinam, in E.P.No.63 of 2020 in A.R.C.No.148 of 2011 dated 07.07.2020.

3.The above Revision Petition was posted on 16.03.2023, for hearing the learned Counsel for the Respondents.

4.On 16.03.2023 the date of hearing, the learned Counsel for the 1st Respondent had furnished a Memo of Calculation and filed a counter to the Memo of Calculation filed by the learned Counsel for the Revision Petitioner.

5.As per the submission of the learned Counsel for the 1st Respondent, paragraph 7 sub para (v) of the counter is as follows:

v) As per Section 71 of the Chit Funds Act 1982



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“Every order passed by the Registrar or the nominee under Section 68 or Section 69 and every order passed by the State Government in Appeal under Section 70 for payment of any money shall, if not carried out,

- a. On a certificate issued by the Registrar, be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such Court (or)*
- b. Be executed in accordance with the provisions of any law for the time being in force for the recovery of amounts as arrears of land revenue:*
- c. Provided that no application for execution under clause (b) shall be made after the expiry of three years from the date fixed in the order, and if no such date is fixed, from the date of the order.”*

6.The learned Counsel for the Revision Petitioner contended that the Execution Petition is barred by limitation and therefore not maintainable.

7.On consideration of the rival submissions and Memo of Calculation filed by the Revision Petitioner and the 1st Respondent. The submission of the learned Counsel for the Revision Petitioner is found



reasonable.

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(a) The 1st Respondent who is the Decree Holder before the Executing Court, had recalculated the amount due as per the Award of the Arbitrator claiming interest of 24% from the date of the arbitration case and 6% interest from the date of the Award.

(b) The Memo of Calculation of the Revision Petitioner is as follows:

Claim Amount	Rs.6,86,722/-
Interest at the rate of 24% per annum For Rs.6,86,722/- from 27.04.2011 to 08.11.2013 is 884 days	Rs.4,04,708/-
Interest at the rate of 6% per annum for Rs.6,86,722/- from 09.11.2014 to 03.04.2019 is 1969 days	Rs.2,25,359/-
Total	Rs.13,16,789/-

(b) The Memo of Calculation of 1st Respondent/Decree Holder is as follows:

Decree amount	Rs. 8,10,332.00
Interest at 24% P.A on Rs.6,86,722/- from date of 27.04.2011 To 08.07.2013 (803) days	Rs. 3,62,589.00
Interest at 6% P.A on Rs.6,86,722/- from date of 09.07.2013 To 03.04.2019 (2094 days)	Rs. 2,36,383.00
Total (Balance)	Rs.14,09,304.00
Execution Cost	Rs. 20.00
Stamp on Process	Rs. 4.50
Stamp on Award	Rs. 5.00
Counsel fees	Rs. 1,500.00
Stamp on Vakalath	Rs. 10.00



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Decree amount	Rs. 8,10,332.00
Total	Rs.14,10,843.50 should be the EP claim
Interest at 6% P.A on Rs.6,86,722/- from date of 04.04.2019 To 14.03.2023 (1440 days)	Rs. 1,62,556.00
Grand Total	Rs.15,73,399.50

(c) On comparing the aforementioned calculation, this Court accepts the calculation of the 1st Respondent/Decree Holder. From the date of Petition in A.R.C.No.148 of 2011, 27.04.2011 to 08.07.2013, 24% interest was calculated as Rs. 3,62,589/-.

8.The learned Counsel for the Revision Petitioner contended that calculating the dues as Rs.6,86,722/- cannot be accepted. Since the Arbitrator passed the Award, stating the amount to be Rs.8,10,332/- the Executing Court cannot travel beyond the decree. Only at this stage, the Revision Petitioner herein has come forward by filing this Petition, stating that the calculation of the 1st Respondent in the Execution Petition is faulty, whereby it is shown as Judgment Debtor/Revision Petitioner herein had to pay Rs.21,19,088/- as dues. Whereas after the Memo of Calculation filed by the Revision Petitioner, the 1st Respondent/Decree Holder had calculated it as above, which is found acceptable and reasonable. The



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learned Counsel for the Revision Petitioner accepts the same.

9. In the light of the above, the Execution Petition for Rs.21,19,088/- is found faulty. The Executing Court shall recalculate it as above and proceed with the execution of the decree for Rs.14,10,843.50 and subsequent interest from 04.04.2019 to 14.03.2023 as Rs.1,62,556/- thereby total being Rs.15,73,399.50p. This Court directs the Executing Court to proceed with the revised calculation of Rs.15,73,399.50p.

10. With the above direction, **this Civil Revision Petition stands disposed of.** No costs. Consequently, connected miscellaneous petition is closed.

28.04.2023

cda

Index : Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No

SATHI KUMAR SUKUMARA KURUP, J.,

cda



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To

- 1.The Subordinate Judge, Nagapattinam.
- 2.The Assistant Registrar,
Chits, Nagapattinam.

**Order made in
C.R.P.No.501 of 2021**

28.04.2023