



C.R.P.No.1403 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM:

The Hon'ble MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.R.P.No.1403 of 2021
and C.M.P.No.10902 of 2021

Vinodh Kumar

...Petitioner

-Vs-

Sri.L.K.M.S.Chits (P) Ltd.,
rep. by its Managing Director,
Lakshminarayanan,
473, C.S.R.Building,
Brough Road,
Erode -1.

...Respondent

Prayer:- Civil Revision Petition filed under Section 115 of CPC., to set aside the fair and decretal order dated 31.03.2021 passed in E.A.No.1 of 2019 in E.P.R.No.33 of 2017 in A.R.B.No.49 of 2016 on the file of the I Additional District Munsiff Court, Erode.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Mr.J.Franklin



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ORDER

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This Civil Revision Petition is filed by the Revision Petitioner against the order dated 31.03.2021 passed in E.A.No.1 of 2019 in E.P.R.No.33 of 2017 in A.R.B.No.49 of 2016 on the file of the I Additional District Munsiff Court, Erode.

2.The learned Counsel for the Revision Petitioner submits that the Revision Petitioner is the 2nd Respondent before the Arbitration proceeding in A.R.C.No.49 of 2016 dated 07.11.2016. The Respondent herein is the Decree Holder before the Deputy Registrar of the Chits, Erode. The Petitioner herein who stood surety for the 1st Respondent in A.R.C.No.49 of 2016. In continuation of the Arbitration proceeding an Execution Petition was also filed by the Decree Holder in E.P.R.No.33 of 2017 on the file of the learned I Additional District Munsiff, Erode.

3.The learned Counsel for the Revision Petitioner contended that the Revision Petitioner stood as surety for the 1st Respondent in the Arbitration proceeding in Arb.No.49 of 2016 and he is working as Assistant Engineer, TNEB, Namakkal. The Execution Petition was filed by the Decree Holder



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and the Revision Petitioner herein was shown as the Assistant Engineer and his Superior Officer, Garnishee in E.P.R.No.33 of 2017 as Superintending Engineer, TNEB, Namakkal. The learned Counsel for the Revision Petitioner submits that as per Order XXI Rule 48 of CPC, while entertaining Execution Petition for attachment of the salary, the address of the Garnishee shall be within the local jurisdiction of the Executing Court. The Executing Court is at Erode, whereas the Garnishee is at Namakkal. Therefore, the Revision Petitioner herein as the Judgment Debtor in the Execution Petition, had filed the present Civil Revision Petition raising this ground. The learned I Additional District Munsif had allowed the Execution Petition rejecting the objections raised by the Respondent in Execution Petition and allowed the Execution Petition. Aggrieved by the same, the above Civil Revision Petition is filed.

4.The learned Counsel for the Respondent Decree Holder/Petitioner in the Execution Petition has vehemently opposed the submission of the learned Counsel for the Revision Petitioner stating that the Execution Petition was filed since the Judgment Debtor was residing within the local limits of District Munsif Court, Erode. Subsequently, he had shifted his



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residence to Namakkal. Therefore, the order passed by the learned I Additional District Munsiff, Erode does not warrant any interference by this Court.

5.On consideration of the rival submission and perusal of the Order XXI Rule 48 of CPC as not pointed out by the learned Counsel for the Revision Petitioner, the Execution Petition for attachment of the salary shall be filed within the local limits of the Garnishee. Therefore, the order passed by the learned I Additional District Munsiff, Erode is set aside. The learned I Additional District Munsiff, Erode is directed to transmit the Award to the Court of the learned District Munsiff, Namakkal.

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

15.03.2023

cda

Index : Yes/No

Speaking/Non-speaking order



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To

- 1.The District Munsiff Court, Namakkal.
- 2.The I Additional District Munsiff, Erode.



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SATHI KUMAR SUKUMARA KURUP, J.,

cda

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