



CRP. No. 2381 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 2381 of 2023

Margadarsi Chits Private Limited
Represented by its Branch Manager & Foremen
3rd Floor, Keshyab Enclave
13-a, Velachery Main Road,
Velachery, Chennai – 600 042.

...Petitioner

Vs.

1.R.S.Raghavan
2.M.Sampath Kumar
3.K.Venkatesh
4.S.Prabakar
5.R.Thirumalainambi
6.S.Govind
7.N.Venkateswaran

....Respondents

PRAYER : This petition filed under Section 115 of CPC, to set aside the fair and decreetal order dated 20.04.2023 in EP No. 4170 of 2021 in A.R.C No. 1037 of 2008 on the file of the XXVII Assistant City Civil Court, Chennai.

For Petitioner : Mr.D.Shivakumaran
R1 left



For R1 & R4 : Vacated
For R5 : Not Appeared
For R6 and R7 : unclaimed
For R3 : D.Lakshmipathy

ORDER

This petition has been filed to set aside the fair and decreetal order dated 20.04.2023 in EP No. 4170 of 2021 in A.R.C No. 1037 of 2008 on the file of the XXVII Assistant City Civil Court, Chennai.

2. The petitioner herein filed EP No. 4170 of 2021 in ARC No. 1037 of 2008, on the file of the XXVII Assistant City Civil Court, Chennai. The said petition was dismissed by the Court Below. Challenging the same the petitioner filed this petition.

3. Heard the learned counsel for the petitioner and the learned counsel for the petitioners.

4. On perusal of the records, it reveals that arbitration award was passed in ARC No. 1037 of 2008 in the year 2009. Thereafter, the decree holder filed E.P No.4170 of 2021 in ARC No. 1037 of 2008 to execute the same, but the executing court dismissed the execution petition stating that in Form 2 of the award address of the Court not been properly mentioned. Further, to substantiate his claim the petitioner relied the ratio laid down in



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Kotak Mahindra Bank Ltd Vs. Sivakam Sundari reported in 2011 CTC

WEB CODE: 11(6):

It must be noted that any award passed by the Registrar of Chits under [Section 69](#) of the Tamil Nadu Chit Funds Act, 1982, is also made executable by a civil Court, as if it is a decree of Court, by virtue of [Section 71](#) of the Act. No demand is made for the transmission of those awards. Therefore, it is not proper to import the provisions of Order XXI, Rules 5 and 6 and demand an order for transmission. This principle shall apply not only to the case on hand where the X Assistant Judge, City Civil Court, Chennai, has made such a demand, but would also apply to every other Court, including the Original Side of this Court. Neither the Court to which an execution petition is presented can demand the same to be transmitted from some other Court, nor an award holder entitled to approach any other Court seeking transmission, except in cases where only part satisfaction is recorded in execution by one Court and the remaining portion is required to be executed as against the property situate within the jurisdiction of any other Court.

5. This court is of the view that it is curable defect but the Court below erroneously dismissed the execution petition as such is liable to be set aside. Further, Judgment relied by the learned counsel for the petitioner is applicable to the fact of the present case. Hence, the order passed by the Trial Court in EP No. 4170 of 2021 is set aside and also the Trial court is directed to take the execution petition on file and dispose the same on merits. Accordingly, this petition is allowed. No cost.

24.11.2023

pbl



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T.V.THAMILSELVI,J.

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To

1. The XXVII Assistant City Civil Court, Chennai.

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