



C.R.P.No.146 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE T.V.THAMILSELVI

C.R.P.No. 146 of 2022

and

C.M.P.No. 819 of 2022

V. Kamalasekar

.. Petitioner

Vs

1.M/s. Shriram Chits Tamil Nadu Pvt., Ltd.,
Represented by its Authorized Signatory,
A. Jayasundari, Law Officer,
Greams Road, Chennai – 600 006.

2.R. Shanthikyq
3.M. Masilamani
4.D. Chandru

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 10.02.2021 passed in E.A.SR.No.8800 of 2020 in E.P.No.1073 of 2018 in ARC.No.441 of 2012 by the learned IX Assistant Judge, City Civil Court, Chennai (now on the file of the learned XXV Assistant Judge, City Civil Court, Chennai at Allikulam).



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For Petitioner : Mr. C.P. Sivamohan

For Respondents : Mr. T. Jaya Kumar, for R1

ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 10.02.2021 passed in E.A.SR.No.8800 of 2020 in E.P.No.1073 of 2018 in ARC.No.441 of 2012 by the learned IX Assistant Judge, City Civil Court, Chennai (now on the file of the learned XXV Assistant Judge, City Civil Court, Chennai at Allikulam).

2. The revision petitioner herein is the judgment debtor in the E.P.No.1073 of 2018 filed application under Section 47 CPC, submits that the award passed in ARC.No.441 of 2012 dated 27.05.2013 by Registrar of Chits as, inexecutable and prayed to stay all the proceedings in E.P.No.1073 of 2018. That application was rejected by the execution Court stating that till date, award was not challenged by the judgment debtor and straight away he has filed the said application as such is not permissible. Accordingly, the same was rejected.

3. Aggrieved over the same, the judgment debtor preferred this



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revision.

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4. The learned counsel for the decree holder / first respondent submits that proper notice was served to the revision petitioner, much earlier in the year 2012 and award was passed in the year 2013. So far the award has not been set aside. Therefore, the executing Court rightly rejected the application, which needs no interference.

5. By way of reply, the learned counsel for the revision petitioner submits that proper notice was not served in respect of the arbitration award. Only on receipt of the notice in the amendment application filed by the decree holder, he came to know that there is an arbitration award. So he is taking effective steps to set aside the award as well as the execution proceeding but proper opportunity was not given by the executing Court.



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6. Considering the submissions and on perusal of the records, this admitted fact that the award is an ex parte award but it was passed in the year 2013 but as on date the award is in force. However, the judgment debtor needs time to challenge the said award as it is a fraudulent one. If opportunity is not given to him to prove his defence, his rights will be defeated.

7. Accordingly, this Civil Revision Petition is allowed by setting aside the order passed by the executing Court in E.A.SR.No.8800 of 2020 in E.P.No.1073 of 2018 in ARC.No.441 of 2012. Consequently, connected miscellaneous petition is closed.

8. The executing Court is directed to take the E.A., on file and dispose the same by giving opportunity to the other side, within 4 months from the date of receipt of copy of this order. Until then EP need not be proceed.

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Index :Yes/No
Neutral Citation :Yes/No
AT



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To
The XXV Assistant Judge, City Civil Court, Chennai at Allikulam.



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T.V.THAMILSELVI, J.

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