



WEB COPY



C.R.P.No.4542 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No. 4542 of 2017

and

C.M.P.No.21410 of 2017

1. N.Arockiyadoss

2. G.Albert Arokiyaraj

....

Petitioners

Vs

1. Sriram City Union Finance Limited,
No.93, S.S.Complex,
Thiruvannamalai Road,
Gingee.

Represented by its authorized representative
Assistant Branch Manager
having its Divisional Office at
No.15, Rangapillai Street,
Pondicherry.

2. P.Karthikeyan

3. D.Periyasami

4. P.Nandakumar

....

Respondents

Prayer:- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the fair and decretal order dated 20.09.2017 in E.P.No.8 of 2016 in ACP (SCUF)KM/117/2014 on the file of the Subordinate Judge, Gingee, Villupuram District.



WEB COPY



C.R.P.No.4542 of 2017

For Petitioners : Mr.R.Rajarajan
For R1 : No appearance
For R2 to R4 : Given up

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order dated 20.09.2017 passed in E.P.No.8 of 2016 in ACP (SCUF)KM/117/2014 on the file of the Subordinate Judge, Gingee, Villupuram District, thereby ordered to attach the salary of the petitioners herein.

2. The petitioners are the respondents 3 and 4 in the Arbitration proceedings initiated by the first respondent herein. As per the Award dated 05.05.2014, the first respondent herein filed an Execution Petition as against all the respondents.

3. The learned counsel appearing for the petitioners would submit that the Execution Court ordered attachment of salary only as against the petitioners herein without attaching the salary and property owned by the original borrower viz., the second respondent herein. He further submitted that the first respondent did not take any action as against the principal



C.R.P.No.4542 of 2017

WEB COPY

debtor and kept quite and indiscriminately chosen to take action as against the petitioners herein and attached the salary. He also submitted that the Arbitral Award itself is partly in-executable in view of the fact that the interest at the rate of 36% was granted till the realization of the award amount. The Arbitrator is being confined to award interest with respect to the future realization under Section 31 of the Arbitration and Conciliation Act. The interest at the rate of 36% per annum from the date of award to the date of realization is directly in contravention and violation of Section 31(7) (a) and (b) of the Arbitration and Conciliation Act.

4. A perusal of the records reveals that the first respondent filed an Execution Petition as against all the respondents including the principal debtor. Admittedly, the petitioners have stood as guarantors on the loan borrowed by the second respondent herein. However, they are worked and as such, the Execution Court ordered for attachment of salary in order to realise the award amount. Insofar as the interest portion of the award is concerned, even today, the petitioners did not chose to challenge the award in the manner known to law. Therefore, before the Execution Court, they



C.R.P.No.4542 of 2017

WEB COPY

cannot agitate the issue for the portion of the awarding interest. The Execution Court cannot go beyond to decree.

5. Hence, this Court finds no infirmity or illegality in the order dated 20.09.2017 passed in E.P.No.8 of 2016 in ACP (SCUF)KM/117/2014 on the file of the Subordinate Judge, Gingee, Villupuram District, accordingly, this Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

02.03.2023

Index: Yes/No
Internet: Yes/No
Lpp

To
The Subordinate Judge,
Gingee, Villupuram District.

G.K.ILANTHIRAIYAN, J.



WEB COPY



C.R.P.No.4542 of 2017

Lpp

C.R.P.No. 4542 of 2017
and
C.M.P.No.21410 of 2017

02.03.2023