



C.R.P.No.115 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.115 of 2023

1. P.R.Karunagaran

2. T.V.Mohan

... Petitioner

Vs

1.Jayapriya Chit Funds (P) Ltd.,
Rep. by its foreman T.Elangovan,
Office at No.117, Sri Mahavishnu Complex,
M.G.Road, Sundaram Theater Opposite,
Kornad, Mayiladuthurai – 609 001.

2.R.Jamuna

3.P.Anantharaj

4.K.Thanialagu

5.S.Rajendran

6.S.Renganathan

... Respondents



C.R.P.No.115 of 2023

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India set aside the Docket order dated 18.11.2021 passed by Additional Sub-Court, Myladuthurai, made in E.P.No.108 of 2019 i ACP No.56/15 by allowing the above CRP.

For Petitioners : Mr.V.Maharajan

ORDER

The Civil Revision Petition has been filed to set aside the docket order dated 18.11.2021 passed by Additional Sub-Court Myladuthurai, in E.P.No.108 of 2019, in ACP No.56 of 2015.

2. The order passed in the Execution Proceeding in EP.No.108 of 2019 is questioned mainly on the ground that there are six guarantors and the execution proceeding proceeded against two guarantors/revision petitioners herein, and therefore, the order is to be set aside.

3. The learned counsel for the revision petitioner mainly contended that the Decree holder and the Courts ought to have initiated steps to



C.R.P.No.115 of 2023

recover the dues from the other guarantors also. That apart, the borrower is the owner of the house and has sources to settle the amount. While so, the decree-holder ought to have proceeded against the borrower instead of proceeding against the guarantor. It is not disputed that an arbitral award has already been passed, wherein the revision petitioners are parties. All such grounds on merits ought to have adjudicated in the arbitral award, which cannot be adjudicated now by the High Court in Civil revision petition which is filed against the order passed in the execution proceedings.

4. The arbitral award was passed on merits and the revision petitioners raised all the grounds. Whether the borrower has got sufficient source of income or otherwise is to be adjudicated with reference to the documents and evidence and mere submission in this regard, after passing an order in execution petition, cannot be entertained by the High Court in revision proceedings. It is not in dispute that the revision petitioners are also guarantors and award was passed against them and consequently, the execution petition was filed which was allowed.



C.R.P.No.115 of 2023

5. This being the factum, this Court is of the opinion that the petitioner has not raised any acceptable ground for the purpose of interfering in the docket order impugned. Accordingly, the Civil Revision Petition stands **dismissed**. However, there shall be no order as to costs.

sha

23.01.2023

Speaking Order

Internet : Yes

Index: Yes

Copy to:

Additional Sub-Court, Myladuthurai.



WEB COPY



C.R.P.No.115 of 2023

S.M.SUBRAMANIAM, J.

sha

C.R.P.No.115 of 2023

23.01.2023