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CRP (MD) No.1280 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	28.07.2023
Pronounced on	17.11.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

CRP (MD) No.1280 of 2023
and
C.M.P(MD) No.6300 of 2023

1.J.Kulandhaisamy
2.K.Seethalakshmi
3. K.Rajesh

... Petitioners

Vs.

The Manager,
Aptus Value Housing Finance India Limited,
Sivakasi Post,
Virudunagar District.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 10.04.2023 in E.A.No.54 of 2022 in E.P.No.14 of 2019 in A.C.P.No.305 of 2018 on the file of the learned Subordinate Judge, Kovilpatti, Thoothukudi District.

For Petitioners : Mr.I.Senthil Kumar

For Respondent : Mr.V.Sukumar



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ORDER

The revision petition is preferred against order dated 10.04.2023 in E.A.No.54 of 2022 in E.P.No.14 of 2019 in A.C.P.No.305 of 2018 on the file of the learned Subordinate Judge, Kovilpatti, Thoothukudi District.

2. According to the revision petitioners the first revision petitioner filed a complaint in C.C.No.69 of 2017 before the District Consumer Disputes Redressal Commission at Srivilluputhur against the respondent claiming compensation for a sum of Rs.15,00,000/- from the respondent for the mental agony and hardship caused to the 1st revision petitioner due to the "deficiency in service" and "negligent in act" and "unfair trade practice" committed by the respondent. The said petition was numbered and it is pending before the said commission. He submitted that at the time of issuing the loan for a sum of Rs. 7,50,000/- to the first petitioner, the respondent has stated that the first revision petitioner has to repay a sum of Rs.10,000/- as monthly instalment to the respondent. But to the contrary, the first revision petitioner was compelled to repay a sum of Rs.17,000/- as monthly instalment to the respondent under coercion and undue influence by the respondent. Hence, the



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first revision petitioner stopped to repay the monthly instalment to the respondent. While so, the respondent filed A.C.P.No.305 of 2018 in which an order was passed in favour of the respondent. Thereafter, filed E.P.No.14 of 2019 for executing the order passed in A.C.P.No.305 of 2018 directing the respondent to pay the decretal amount with subsequent interest and cost failing which, to attach and sell the property belonging to the respondent. The revision petitioners filed E.A.No.54 of 2022 to stay the order of attachment in E.P.No.14 of 2019 stating that they have preferred a complaint before the Consumer Tribunal as against the decree holders. The Executing Court however dismissed the E.A.No.54 of 2022 by stating that the revision petitioners failed to produce the documents to show that they have preferred appeal against the award passed by the Arbitral Tribunal.

3. Aggrieved by this the revision petitioners has preferred the above revision petition for setting aside the order passed in E.A.No.54 of 2022 in E.P.No.14 of 2019.

4. The learned Counsel appearing for the Petitioner would submit that taking advantage of the order passed by the learned Subordinate Judge,



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Kovilpatti, Thoothukudi District, the respondent has been making all arrangements to sell the property of the revision petitioners. Hence, he was constrained to file E.A.No.54 of 2022 to stay the order passed in E.P.No.14 of 2019. However , the trial Court without applying its mind dismissed the Execution Application filed by the revision petitioners for staying the order passed in E.P.No.14 of 2019. On the other hand, the learned counsel appearing for the respondent would submit that no appeal was preferred against the order passed by the Arbitral Tribunal in A.C.P.No.305 of 2018. The present petition was filed by the revision petitioners only with malafide intention not to repay the loan amount borrowed by the revision petitioners. The Executing Court has rightly dismissed the stay application filed by the revision petitioners, since there was no reason to stay the order of attachment passed by the Executing Court.

5.Heard on both sides and perused the records.

6.It is not in dispute in A.C.P.No.305 of 2018 the Arbitral Tribunal has passed an award for repayment of loan amount borrowed by the revision petitioners. According to the revision petitioners, they have preferred the



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appeal before the Consumer Tribunal as against the decree holder. However, no material is produced before this Court that any appeal is preferred as against the award passed by the Arbitral Tribunal. Hence, the Executing Court has rightly dismissed the application filed by the revision petitioners to stay the order of attachment passed by the Executing Court. The statement of account filed by the respondent reveals the amount payable by the revision petitioners to the respondent.

7.Hence the Civil Revision Petition is dismissed, there is no merit in the revision petition and the same is liable to be dismissed. No cost. Consequently, connected miscellaneous petition is closed.

17.11.2023

vsn

To

The Subordinate Judge, Kovilpatti, Thoothukudi.



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