



C.R.P(MD)No.1073 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.07.2023

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.1073 of 2018

and

C.M.P(MD)No.4653 of 2018

Little Flower Matriculation School,
Represented through its Correspondent,
A.Mariasosai

...Petitioner/Petitioner/
Respondent

Vs.

1.M/s.Edusmart Services Private Limited,
Represented through its Authorized Representative,
Pramod Thatoi,
L-74, Mahipalpur Extention,
New Delhi-110037,
Represented through its Power of Attorney,
D.K.Narasimhan

2.M/s.Educomp Solutions Limited,
Through its Senior Manager-Legal,
Nitesh Kumar,
1211, Padma Tower 1,
5, Rajendra Palace,
New Delhi-110008,
Represented through its Power of Attorney,
D.K.Narasimhan

...Respondents/
Respondents/
Petitioners

PRAYER: Civil Revision Petition is filed under Article 227 of the
Constitution of India, to set aside the fair and decreetal order in E.P.No.



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41 of 2016 in Ar.O.P.No.523 of 2014, on the file of the learned Principal District Judge, Tirunelveli dated 20.04.2018.

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For Petitioner : Mr.J.Jeyakumaran

For Respondents : No Appearance

ORDER

This civil revision petition has been filed against the order passed by the learned Principal District Judge, Tirunelveli in E.P.No.41 of 2016 in Ar.O.P.No.523 of 2014, dated 20.04.2018.

2. The petitioner is the respondent before the Trial Court. It appears that the respondents herein have filed an arbitration proceedings against the petitioner herein in Arbitration Case No.ARB/JN/523/2014, wherein, the sole Arbitrator has passed the following award:

"16. In view of the above discussion, I pass the award as under:

(i) The respondent school shall pay to the claimants companies an amount of Rs.19,06,187/- due as on 31.08.2015 with future interest @ 18% per annum on the said amount from 01.09.2015 till realization.

(ii) The respondent school shall also pay to the claimants companies a sum of Rs.25,000/- as costs of these proceedings and also pay such costs and expenses that may be born and incurred by the claimants for recovering awarded amount additionally with value of non judicial stamps Rs.2,000/-."



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3. In pursuance thereof, the respondents herein filed an execution petition in E.P.No.41 of 2016, in which, the learned Trial Judge has passed an order of attachment on 20.04.2018. Against which, the instant civil revision petition has been filed.

4. Despite notice being served and name of the learned counsel for the respondents being printed in the cause list, there is no representation on behalf of the respondents.

5. The learned counsel for the petitioner vehemently submits that the very order of attachment passed by the Court below ignoring the settlement, dated 11.03.2013, is contrary to law. Hence, he prayed to set aside the order of attachment.

6. I have given my anxious consideration to the submission of the learned counsel for the petitioner.

7. From the perusal of the record, it appears that the award was passed on 27.11.2015. Whereas, in the counter statement, the petitioner herein has pleaded some sort of settlement on 11.03.2013, which is prior to the date of the award. But the learned counsel for the petitioner



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submits that, since there was settlement, the petitioner did not appear before the arbitration proceeding held at Delhi. The petitioner projecting the alleged settlement which took place prior to award, as the ground for challenging the attachment proceedings of the E.P.

8. In the execution proceeding, it is the rudimentary principle that the executing Court cannot go beyond the decree, dated 27.11.2015. Here the decree/award is unchallenged. Therefore, as long as the award is unchallenged and enforceable, the so called settlement, which had taken place prior to the date of the award cannot be gone into, while pursuing the execution proceeding.

9. The learned Trial Judge has elaborately discussed all these things and has found that if there had been any settlement, this could have been very well brought to the knowledge of the Arbitrator before passing an award. Having failed so, there is no point in arguing upon the same in execution proceedings.

9. Therefore, this Court is of the firm view that the finding of the Court below is rational and this Court do not find any manifest infirmity in the order.



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10. In the result, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The learned Principal District Judge,
Tirunelveli
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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