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C.R.P.No.870 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.870 of 2024

M/s.Shriram City Union Finance Ltd.,
Registered office at,
123, Angappan Naicken Street, Chennai – 600001.
Branch office at
No.5/1, Veterinary Hospital Road,
Erode – 638 001.
Represented by its,
Authorised Signatory A.Ramkumar

... Petitioner

Vs

1. A.Suresh
2. A.Malliga

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the order dated 05.07.2022 passed in E.P.No.40 of 2020 in A.C.P.No.1418 of 2015 on the file of the learned Ist Additional Subordinate Judge, Erode.

For Petitioner : Mr.A.Swaminathan



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ORDER

This Civil Revision Petition has been filed by the petitioner against the order passed by the learned Ist Additional Subordinate Judge, Erode, in E.P.No.40 of 2020 in A.C.P.No.1418 of 2015 dated 05.07.2022.

2. The brief facts of the case is that the petitioner Company is the decree holder pursuant to the decree passed by the Arbitral Tribunal, Erode, in A.C.P.No.1418 of 2015 on 26.11.2015 directing the respondents to pay the decretal amount of Rs.6,80,785/- along with interest at the rate of 18% per annum from 29.04.2015 to 09.10.2019, totaling to Rs.12,25,386/-. The petitioner company had filed an execution petition in E.P.No.40 of 2020 before the learned Ist Additional Subordinate Judge, Erode. Simultaneously, the petitioner company had also filed an execution petition in E.P.No.40 of 2020 before the learned District Munsif, Erode against one Maheswari and others in TF.A.C.P.No.42 of 2014. Meanwhile, the said Maheswari had settled the entire amount and the petitioner company had prepared a full satisfaction memo in respect of E.P.No.40 of 2020 on the file of the learned District Munsif, Erode, however, due to some inadvertent error, the satisfaction memo had been wrongly typed as E.P.No.40 of 2020 on the



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file of the Ist Additional Subordinate Judge, Erode and inadvertently filed before the Court on 05.07.2022. The full satisfaction memo was mistakenly filed due to the identical case number 40 of 2020, whereas, the execution Court, based on the memo filed mistakenly, had terminated the execution petition. Only after reconciliation of accounts, the petitioner came to know that the full satisfaction memo had been filed in wrong execution petition. Thereby, the petitioner company had filed an application seeking to set aside the order and to restore the execution petition. However, the Executing Court had refused to entertain the application and returned the same. Challenging the same, the present revision petition has been filed.

3. Learned counsel for the petitioner submitted that till date, the amount has not been settled by the respondents and the full satisfaction memo has been filed in the Court due to bonafide mistake on account of network problem in the company. He further submitted that if the order of termination dated 05.07.2022 has not been set aside and if the execution petition is not taken on file, the petitioner will be put to unnecessary hardship and loss. He also submitted that no prejudice would be caused to the respondents, since they have not paid a single rupee till date and in



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order to meet the ends of justice and to prevent the abuse of process of law, he seeks to set aside the order passed in execution petition by allowing this revision petition.

4. Notice was ordered to the respondents and despite service of notice to the respondents and their names being printed in the cause list, there is no representation for the respondents.

5. It is seen from the records that only due to genuine and bonafide mistake, the full satisfaction memo has been filed in the wrong execution petition which has resulted in termination of the execution petition on the file the learned Ist Additional Subordinate Judge, Erode. The mistake seems to be bonafide and genuine. Therefore, this Court is of the opinion that in the interest to meet the ends of justice and to prevent the abuse of the process of law, it is necessary to allow the present petition.

6. In view of the above, this Civil Revision Petition stands allowed and the



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order passed by the learned Ist Additional Subordinate Judge, Erode, in E.P.No.40 of 2020 in A.C.P.No.1418 of 2015 on 05.07.2022 is hereby set aside and the learned Ist Additional Subordinate Judge, Erode, is directed to restore the execution petition on file and proceed in accordance with law. No costs.

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Index : Yes / No
Neutral Citation : Yes / No
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To

The Ist Additional Subordinate Judge,
Erode.



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A.D.JAGADISH CHANDIRA, J.

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