



C.R.P.(NPD).No.1552 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.1552 of 2020

and

C.M.P.No.9305 of 2020

P.Jayanthi

... Petitioner

VS

1.M/s.Shriram Transport Finance Co. Limited,
Having Registered Office at Mookambika Complex,
3rd Floor, No. 4, Lady Desika Road, Mylapore,
Chennai-600004.
And Branch Office at E. S. R. Complex,
2nd Floor, No.14-A, Square Market,
Mettur Dam, Salem District – 636401.
Rep. by its Authorized Representative
Mr. P. Jayakumar

2.P.Jayakumar

3.The Head Master,
Government Girls Higher Secondary School,
Nangavalli,
Mettur Taluk,
Salem District.

... Respondents



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Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 04.12.2019 in R.E.P.No.125 of 2018 in Arbitration Case No. 415 of 2016 on the file of Additional District (Fast Track) Court, Mettur, Salem District.

For Petitioner : Mr.C.Prabakaran

For R1 and R2 : Mr.S.Prabakaran

For R3 : Mr.C.Sathish
Government Advocate

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below directing the 3rd respondent to recover the award amount from the petitioner periodically in monthly instalments and send the same to the Court below on or before 5th of every calender month upto the realisation of the entire award amount.

2. The 1st respondent herein obtained an arbitration award against the petitioner and 2nd respondent herein for a sum of Rs.15,54,193/-. Thereafter, they filed execution petition in R.E.P.No.125 of 2018 on the file of Additional District Court, Mettur seeking garnishee order as mentioned above. The



petitioner herein stood as a surety to the 2nd respondent, who is a principal debtor of the 1st respondent. The Executing Court by impugned order directed recovery of award amount from the salary of the petitioner in monthly instalments. Aggrieved by the same, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that she is only a guarantor and the 1st respondent/decreed holder has not taken any steps against the 2nd respondent-principal debtor and therefore, the impugned order passed by the Court below directing recovery of award amount in monthly instalments against the petitioner is liable to be set aside.

4. It is settled law the liability of the guarantor is co-extensive with that of the 2nd respondent. The petitioner and 2nd respondent are jointly and severally liable to pay the amount under the award passed against them. Therefore, it is open to the 1st respondent either to proceed against the principal debtor or against the guarantor. It is needless to say after paying amount to the creditor, it is always open to the petitioner/guarantor to proceed against principal debtor for recovery of money paid by him in accordance with



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law.

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5. Accordingly, I do not find any irregularity or illegality in the order passed by the Court below and consequently, the Civil Revision Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

10.01.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



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To

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- 1.The Additional District (Fast Track) Court,
Mettur, Salem District.
- 2.The Head Master,
Government Girls Higher Secondary School,
Nangavalli,
Mettur Taluk,
Salem District.



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S.SOUNTHAR, J.

dm

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