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C.M.A.No.3243 of 2021 &
C.M.P No.18459 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2024

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3243 of 2021

and

C.M.P No.18459 of 2021

J.Venkatakrisnan

... Appellant

..Vs..

C.S.Venkateswaran

M/s.Shriram City Union Finance Ltd

Represented by its Authorized Signatory

Regional Office at No,151, 1st Floor

Santhosh Palamuthur Nilayam

Maruthamalai Main Road

P.N. Pudur, Coimbatore-641 041.

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Order XL III Rule 1 of Civil Procedure Code 1908, to set aside the fair and decreetal order dated 26.03.2021 made in E.A No.1 of 2020 in E.P No.15 of 2018 on the file of the III Additional District Judge, Coimbatore.

For Appellant

: Mr.S.Victor Prasath

For Mr.P.Kannan

For Respondent

: Mr.A.Swaminathan



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J U D G M E N T

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This appeal has been filed challenging the order dated 26.03.2021 passed by the III Additional District Judge, Coimbatore in E.A No.1 of 2020 in E.P No.15 of 2018.

2. An arbitral award has been passed against the respondent in favour of the appellant under which the appellant has been directed to pay certain sums of money to the respondent. The respondent filed an execution petition in E.P No.15 of 2018 before the III Additional District Court, Coimbatore to execute the said arbitral award against the appellant. The arbitral award passed against the appellant in favour of the respondent has also attained finality as the same has not been challenged by the appellant. The appellant was also set exparte in the execution proceedings in E.P No.15 of 2018. He was set exparte on 12.07.2018. The appellant filed E.A No.1 of 2020 seeking to set aside the exparte order dated 12.07.2018 which came to be dismissed under the impugned order dated 26.03.2021 by the III Additional District Court, Coimbatore. The appellant/judgment debtor has filed this appeal challenging the said order.



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3. The appellant had contended before the III Additional District Court, Coimbatore that on 12.07.2018, since he had joined a new firm, for want of leave, he was unable to attend the court on 12.07.2018. He had also stated that the staff of the respondent company assured him that the execution petition would be withdrawn. Admittedly, the appellant/judgment debtor did not produce any documentary evidence before the III Additional District Court, Coimbatore in support of his contentions. The III Additional District Court, Coimbatore dismissed the application in E.A No.1 of 2020 by holding that since the appellant has not filed any document to substantiate his contentions and the petition having been filed seeking to set aside the exparte order nearly 1-1/2 years after the petitioner was set exparte, the question of entertaining the application in E.A No.1 of 2020 does not arise. This Court does not find any infirmity in the order of the III Additional District Court, Coimbatore which has been challenged in this appeal, as admittedly the arbitral award passed against the respondent has attained finality and there is no documentary evidence placed on record before the III Additional District Court, Coimbatore to prove that the appellant has paid the dues of the respondent/decreed-holder as per the arbitral award passed in



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their favour against the appellant.

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4. In the result, there is no merit in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed. Consequently, connected application is closed. No costs.

15.04.2024

Index:Yes/No
Internet:Yes/No
Speaking/Non-speaking order
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To

1. The III Additional District Judge,
Coimbatore
- 2.The Section Officer
V.R.Section, High Court of Madras.



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ABDUL QUDDHOSE, J.
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