



WEB COPY



C.R.P.No.3277 of 2023
and C.M.P.No.20201 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.3277 of 2023
and C.M.P.No.20201 of 2023

E.Thiruvenkatam

.. Petitioner

Vs.

1.M/s.Sree Gokulam Chit and
Finance Company Private Limited
Represented by Authorised Signatory,
Mr.Jeeelani Basha,
No.49, Arcot Road, Kodambakkam,
Chennai – 600 024.

2.T.Kanchana

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 11.07.2023 passed in E.A.No.3 of 2023 in E.P.No.2605 of 2021 in A.R.C.No.217 of 2017 by the XXV Assistant City Civil Court at Chennai.

For Petitioner	: Mr.L.Ramkumar
For R1	: Mr.L.Rajasekar
For R2	: No Appearance



C.R.P.No.3277 of 2023
and C.M.P.No.20201 of 2023

ORDER

WEB COPY

This Civil Revision Petition has been filed against the order dated 11.07.2023 passed in E.A.No.3 of 2023 in E.P.No.2605 of 2021 in A.R.C.No.217 of 2017 by the XXV Assistant City Civil Court at Chennai.

2.The brief facts of the case are as follows:

2.1.The petitioner joined the chit series run by the 1st respondent for the value of Rs.10,00,000/- at the rate of Rs.50,000/- every month for a period of 20 months. While so, the petitioner become successful bidder for the amount of Rs.7,50,000/-. The petitioner received the said amount but failed to repay the subsequent installments. Therefore, the 1st respondent initiated proceedings under Section 64 and Rule 45 of the Chit Funds Act in A.R.C.No.217 of 2017, before the learned Arbitrator for Central Chennai Chit Fund Cases Court, whereby, an award has been passed for recovery of sum of Rs.9,92,000/- from the petitioner. Therefore, the 1st respondent filed Execution Petition in E.P.No.2605 of 2021, in which, the Revision Petition had filed an application in E.A.No.1 of 2022, for staying all further proceedings. The said application was dismissed on 06.03.2023



C.R.P.No.3277 of 2023
and C.M.P.No.20201 of 2023

and the Execution Petition was posted for pronouncing orders on 20.03.2023. On that day, the Revision Petitioner has filed another application in E.A.No.2 of 2023 to re-open the Execution Petition and the same was allowed with costs on 23.03.2023 and the matter was posted on 20.04.2023. At this stage, an application under Section 47 of the Code of Civil Procedure has been filed to dismiss the Execution Petition mainly on the ground that the learned Arbitrator has not given sufficient time for filing counter and further to settle the claim amount. The learned Arbitrator has also exceeded his limit in deciding the claim and acted contrary to the provisions of the Act and passed the award. Further, the claim has also been barred by limitation and chit agreement. However, the said E.A.No.3 of 2023 has been dismissed. Hence, the Civil Revision Petition has been filed.

3.The learned counsel appearing for the petitioner submitted that the award of the Arbitrator has been barred by law.

4. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing 1st respondent and perused the materials



C.R.P.No.3277 of 2023
and C.M.P.No.20201 of 2023

available on record.

WEB COPY

5.At the outset, this Court is of the view that the application filed under Section 47 CPC itself is not maintainable in the execution proceeding, which was filed to enforce the award passed by the Arbitrator. For better appreciation, Section 47 of the Code of Civil Procedure reads as follows:

“All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by separate suit.”

6.The above provision makes it clear that the decree has to arise out of the suit between the parties and any question raised by the parties relating to the execution, can be decided. Therefore, when the award passed by the Arbitrator is not a decree of the Court, application filed under Section 47 CPC cannot be mechanically applied to the execution proceeding when the award was put into execution. The Hon'ble Apex Court has also held that



C.R.P.No.3277 of 2023
and C.M.P.No.20201 of 2023

the award is not a decree, in the case of “**Paramjeet Singh Patheja vs ICDS Ltd.,**” reported in **2006 13 SCC 32**. The Hon'ble Division Bench of this Court in **O.S.A.No.112 & 113 of 2019** dated **13.02.2020** has held that application under Section 47 CPC is not maintainable in respect of the award passed by the Arbitrator since the award has not been arisen out of the suit. The award has not been for the purpose of enforcement treated as decree. Therefore, unless and until the dispute arise between the parties to the suit, relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by separate suit. Therefore, application under Section 47 CPC cannot be invoked. Hence, this Court does not find any merits in the present case.

7.Accordingly, the Civil Revision Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

07.11.2024

rst
Index : Yes/No
Internet: Yes/No
Speaking/Non-Speaking Order

5/6



WEB COPY



C.R.P.No.3277 of 2023
and C.M.P.No.20201 of 2023

N.SATHISH KUMAR, J.

rst

To:

The XXV Assistant City Civil Judge,
Chennai.

C.R.P.No.3277 of 2023
and C.M.P.No.20201 of 2023

07.11.2024