IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

FRIDAY THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SMT JUSTICE K. SUJANA

CIVIL REVISION PETITION NO: 1610 OF 2024

Petition under Article 227 of the Constitution of India, praying that in the circumstances stated in the grounds filed herein, the High Court may be pleased to set aside the Orders dated 1.4.2024 passed by the Hon'ble Principal Junior Civil Judge, Warangal, in EP No.660/2022 in AA/CF/No.486/2019.

Between:

Lade Linga Rao, S/o.Rajeshwar Rao, Aged about 50 years, Occ. Reserve Sub-Inspector of Police, CAR Warangal, Rank. RSI-7729, Empy Code. 2104267, Bhadratha No.60461, R/o.H.No.2-4-20, F.No.401, Jewel Towers, Ramanagar, Hanamkonda, Warangal District.

...Petitioner/JDR No.3

AND

1. M/s.Shriram Chits Pvt. Ltd, formerly known at Shriram Chits Ltd., Warangal-I Branch, Rep.by its Legal Manager E.Raju, S/o.Kattamallu, aged about 34 years, R/o.Warangal District.

...Respondent/DHR/Disputant

2. Banoth Dilip, S/o.Thukaram, Aged about 46 years, Occ. Business, R/o.H.No.201, IOB Bank, Nakkalgutta, Hanamakonda.

3. Edla Ashok Reddy, S/o.Kommal Reddy, Aged about 52 years, Occ. Business, R/o.H.No.1-9-1211, Sahakar Nagar, Hunter Road, Hanamkonda. (Respondents 2 and 3 are formal parties)

...Respondents/JDR Nos.1&2/Opponents 1&2

Counsel for the Petitioner(s):SRI. Lingampelly Ravinder

Counsel for the Respondent No1: N.Srikanth Goud

The Court made the following: ORDER

THE HONOURABLE SMT JUSTICE K. SUJANA

CIVIL REVISION PETITION No.1610 OF 2024

ORDER:

This revision petition is filed challenging the order dated 01.04.2024 passed in EP.No.660 of 2022 in AA/CF/No.486 of 2019 on the file of the Principal Junior Civil Judge, Warangal, whereunder, the respondent No.1 herein filed the said EP., for realization of Rs.8,51,964/- (Rupees Eight Lakhs Fifty One Thousand Nine Hundred and Sixty Four Only) which is due under the Award passed by the Deputy Registrar of Chits/Arbitrator, and for seeking attachment of salary of JDR.No.3/petitioner herein under Order XXI Rule 48 of Civil Procedure Code (for short 'CPC') and to award amount with future interest at the rate of 18% per annum till realization from the salary attachment proceeds. The said EP., was allowed, issuing salary attachment warrant against the petitioner herein, aggrieved thereby, this revision petition is filed.

2. Heard Sri L.Ravinder, learned counsel for petitioner/JDR No.3, and Sri N.Srikanth Goud, learned counsel for respondent No.1/DHR. None appeared for respondent Nos.2 and 3/JDR Nos.1 and 2.

3. Learned counsel for petitioner submitted that the impugned order is contrary to law, facts, and probabilities and contended that respondent No.1 shielded the original borrower and harassed the petitioner by misusing administration of law. He incessantly contended that respondent No.1 even failed to proceed against the principal borrower, and likewise, he cannot be entitled to proceed against the petitioner as well, without exhausting the necessary steps. He lamented that the Award was passed against the petitioner who was an ex-parte decree, and that the petitioner was not even served with a copy of the Award, indicating fraud on the part of respondent No.1. He asserted that the Arbitration Award and recovery certificate were passed on the same day and the same is contrary to the Act and Rules, and that the calculation made in the execution petition was false and baseless. He averred that the legal officer of the decree holder company had no *locus standi* to

file the execution petition, and that apart, the Award passed by the Deputy Registrar of Chits was not maintainable and goes against the provisions of Rules and Regulations under Rule 55 of the Chit Funds Act. He avowed that the Deputy Registrar of Chits had no right to file the Arbitration Award and Recovery Certificate directly along with the Execution Petition, and that the Award filed by the foreman of the decree holder was not transferred from the Deputy Registrar of Chits to the Court. Therefore, prayed this Court to allow the revision petition, setting aside the impugned order.

4. Per contra, learned counsel for respondent No.1, vehemently, opposed the submissions made by learned counsel for petitioner and submitted that there are no illegalities in the impugned order, asserting that there are no merits in this revision petition. He contended that the petitioner is under liability and is entitled for payments, as per law. Therefore, prayed this Court to dismiss the revision petition.

5. Having regard to the rival submissions made and on going through the material placed on record, it is noted that

the learned counsel for petitioner has primarily contended that instead of prosecuting against all the JDRs, the respondent No.1 selectively chose to attach the salary of JDR.No.3 alone and that the same is not in accordance with law and in support of the said contention, reliance was placed on the judgment rendered by this Court in **Punyamurthula Venkata Viswa Sundara Rao Vs. Margadarsi Chit Fund Private Limited**[1] wherein, it was observed that *law is well settled by High Court that awarded amount has to be claimed proportionately from all the judgment debtors, who are guarantors. But unfortunately the law is well settled otherwise i.e., that the decree holder has an option to proceed against either the principal debtor or any of the guarantors or against all of them. There need to be no interpretative pains, to arrive at the conclusion that the liability of a surety is co-extensive with that of the principal debtor, as section 128 of the Indian Contract Act is clearly worded. It says that the liability of the surety is co-extensive with that of the principal debtor unless it is otherwise provided by the contract.*

[1] 2017 3 ALD 387 DB

6. Section 128 of the Indian Contract Act, states that a surety (a person who guarantees to pay debt if the principal debtor fails to pay) is equally responsible for the debt as the principal debtor, unless the contract specifically states otherwise. In other words, the liability of surety is the same as that of principal debtor, and the surety can be held responsible for the full amount of the debt if the principal debtor defaults. However, if the contract between the surety and the creditor specifically limits or modifies the liability of surety, then the responsibility of surety may be different from that of the principal debtor. That being so, it is just to note that as per law, the respondent No.1 has an option to proceed against either the principal debtor or any of the guarantors or against all of them and there need to be no interpretative pains, to arrive at the conclusion that the liability of a surety is co-extensive with that of the principal debtor, as section 128 of the Indian Contract Act is clearly worded. Therefore, it can be said that there is no force in the said contention of learned counsel for petitioner.

7. Another ground urged by learned counsel for petitioner is that as per Rule 55 of the Chit Funds Rules,

2008 the execution proceedings should be initiated by the party concerned in accordance with the provisions of Section 71 of the Act and that the procedure for filing an execution petition in the civil Court is only through the Registrar who shall forward the application for execution to the proper authority along with a certificate issued by him under Section 71 of the Act. Section 71 of the Act confers the status of a decree of a civil Court, on the certificate issued by the Registrar. However, there is no force in the said contention as a subsequent judgment was passed by this Court in the case of **Madamanchi Anil Kumar Vs. Margadarshi Chit Fund Pvt. Limited**[2] wherein, it was held that the State Government may, by notification in the Official Gazette, appoint a Registrar of Chits and as many Additional, Joint, Deputy and Assistant Registrars as may be necessary for the purpose of discharging the duties imposed upon the Registrar by or under this Act. In other words, the clouds of doubt raised by learned counsel for petitioner with regard to role and discharge of duties of the Deputy Registrar in the case on hand, gets vanished in view of the judgment passed in **Madamanchi Anil**

[2] 2018 SCC OnLine Hyd 2210

Kumar (supra 2) case. Therefore, there is no force in this contention as well.

8. In view of the above discussion, there are no grounds in this revision petition to set aside the impugned order as there are no illegalities or irregularities in the same, warranting interference of this Court. There are no merits in this revision petition and the same is liable to be dismissed.

9. Accordingly, this Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall also stand closed.

Sd/- MOHD. ISMAIL
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

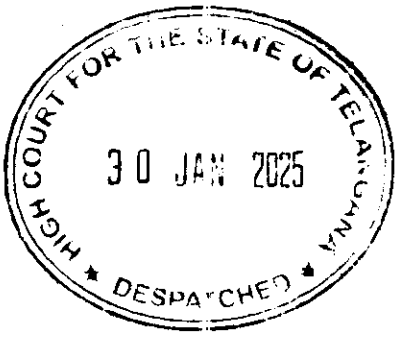
To,

1. The Principal Junior Civil Judge, Warangal. (with records if any)
2. One CC to SRI. Lingampelly Ravinder, Advocate [OPUC]
3. One CC to SRI. N.Srikanth Goud, Advocate [OPUC]
4. Two CD Copies

HIGH COURT

DATED:29/11/2024

ORDER
CRP.No.1610 of 2024



CIVIL REVISION PETITION DISMISSED.

6 copies
Ff
9/1/25